

Spring 1992

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# RICHMOND LAW

THE MAGAZINE OF THE T.C. WILLIAMS SCHOOL OF LAW  
UNIVERSITY OF RICHMOND  
Spring 1992, Vol. 5, No.1

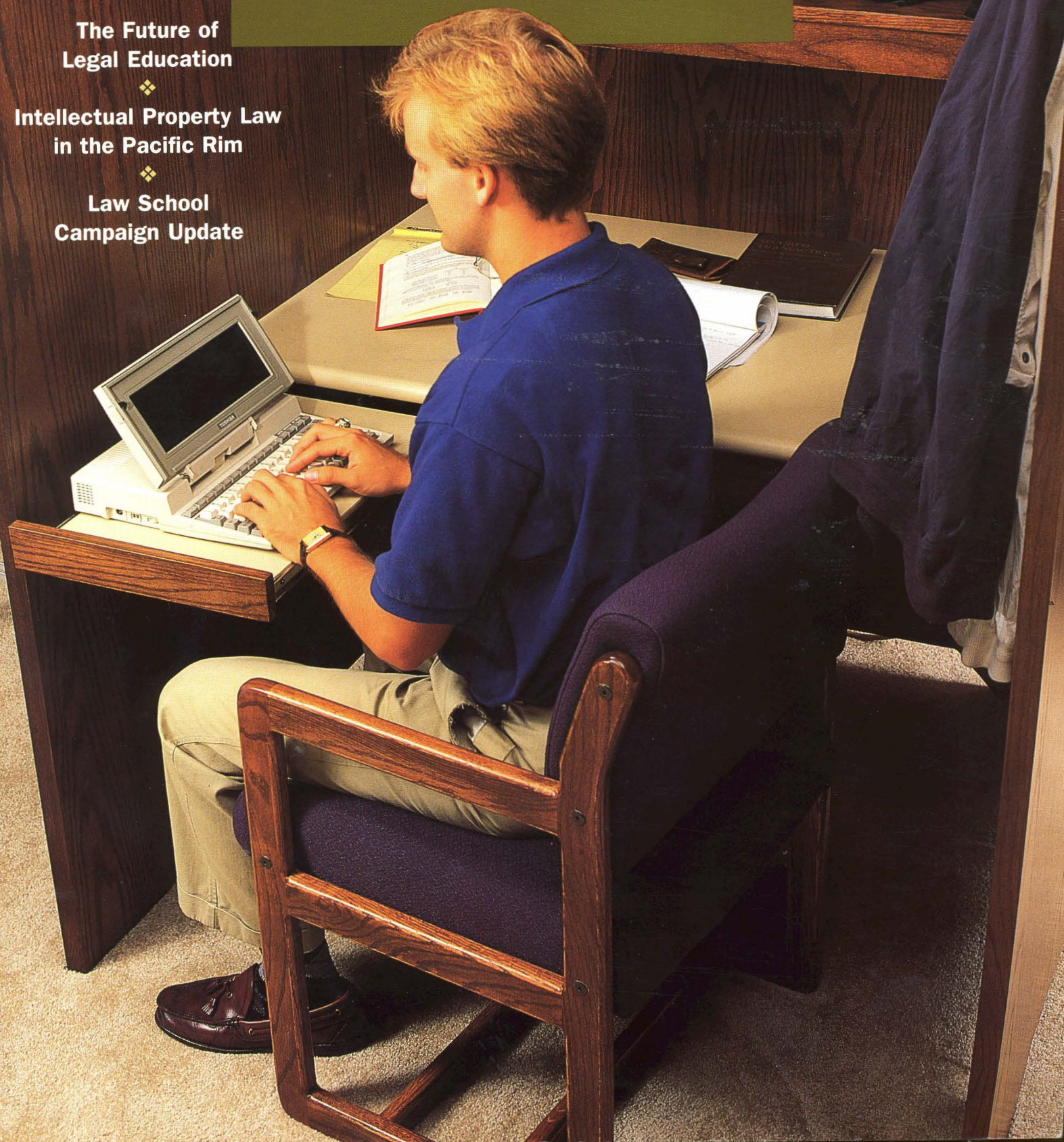
The Future of  
Legal Education



Intellectual Property Law  
in the Pacific Rim



Law School  
Campaign Update







**Albert Lee Philpott**  
1919-1991

The University is saddened by the loss of one of its greatest sons, A.L. Philpott, who died in September. He was 72. A native of Henry County, Virginia, Mr. Philpott attended Richmond College and was graduated from The T.C. Williams School of Law in 1947. He returned to Henry County to practice law and served as Commonwealth's Attorney from 1952 until 1957. Mr. Philpott was elected to the House of Delegates in 1958 and became majority floor leader in 1978. He was elected as Speaker of the House in 1980, a position he held until his death.

A.L. Philpott was among the most distinguished alumni of the University. During his 39-year career in elected office he worked tirelessly to make the Commonwealth a better place. Throughout his life he was devoted to his *alma mater* and served her faithfully. In recognition for his many contributions to the Commonwealth and the University, The *A.L. Philpott Adjunct Chairs in Law* have been established at T.C. Williams. Memorial contributions may be sent in care of the Law School Alumni Office, University of Richmond, Virginia 23173.

# RICHMOND LAW

The Magazine of The T.C. Williams  
School of Law  
University of Richmond  
Spring 1992, Vol. 5, No.1

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**About the Cover** / *The Study Carrel.*  
Phillip S. Griffin, II, L'92 sits at a study carrel— This 16 sq. ft. space is a building block in the future of legal education at T.C. Williams. See "Dean's Page" for more.

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LEGAL EDUCATION  
OF TOMORROW—TODAY

With this issue of Richmond Law I usher you into the next generation of legal education.

Pictured on our cover is one of the new student carrels that dot the Law Library. With 444 of these individual study centers placed throughout the four levels of the Library, all students will have an assigned space to "call home" — or, more accurately, to designate as their "office." Each handsome structure of polished oak, brass and formica provides expansive work and storage space for research, writing and studying.


While these individual carrels give our students more personal, private workspace than is available at any of the nation's law schools, it is only part of what makes the new T.C. Williams the legal education facility of the future. This year the Law School received a major gift from AT&T, the first time this Fortune 100 corporation has made an award to a legal education institution. AT&T installed in the Library a Star Serves, a powerful central computer, and provided us with 75 state-of-the-art 386 workstations. With this hardware in place, we are developing the T.C. Williams Legal Information Center, the only local area network in legal education.

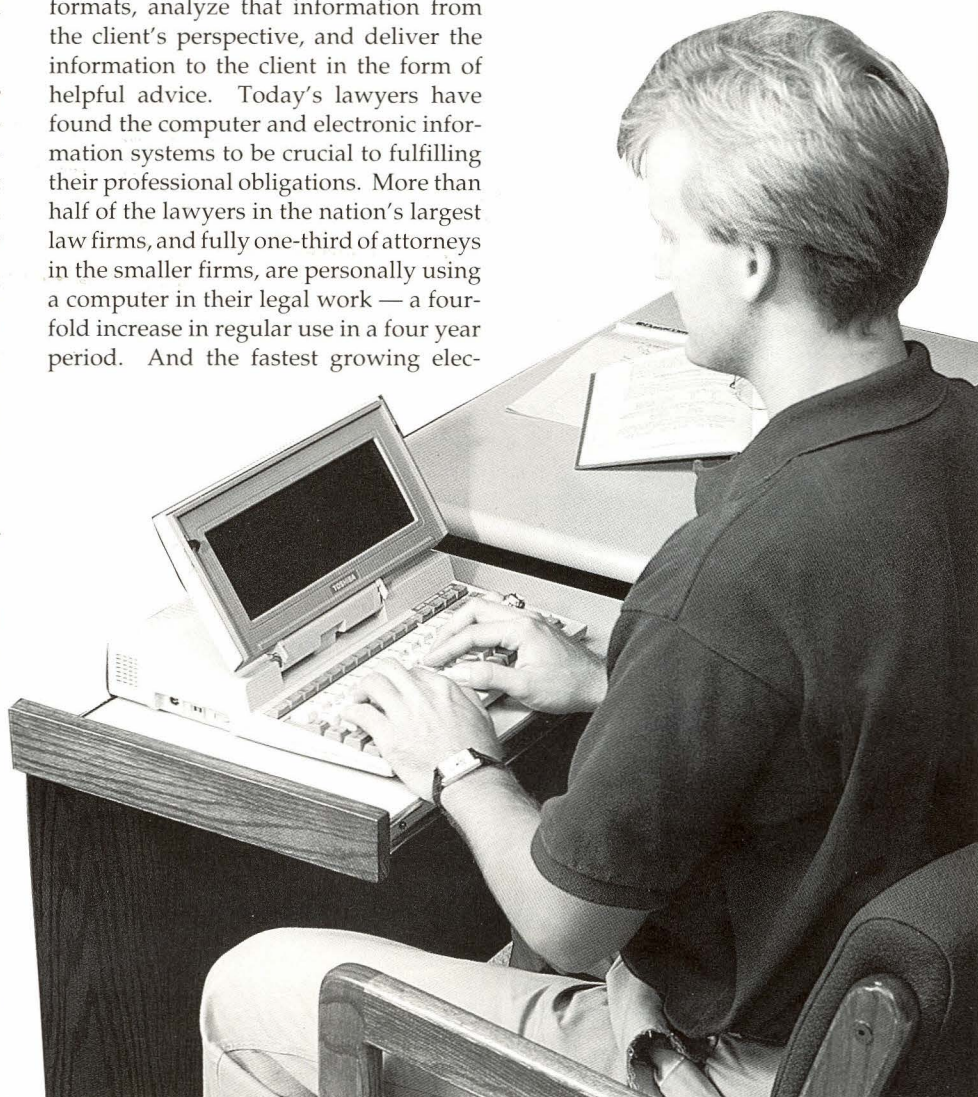
Soon the Legal Information Center will link all faculty, students and staff in a 525 person system that eventually will run word processing, operate an electronic bulletin board, and provide E-Mail capabilities. Most important, all those connected to the Legal Information Center will be able to access LEXIS, WESTLAW, Dow, Jones and other external databases. This means students can electronically search legal, financial and business sources; store the researched data; draft and edit legal briefs and memos; transmit their documents to moot court partners and professors; and receive the correcting comments of their colleagues — and all of

this lawyering activity will take place in their own "mini-office," the permanently assigned study carrel.

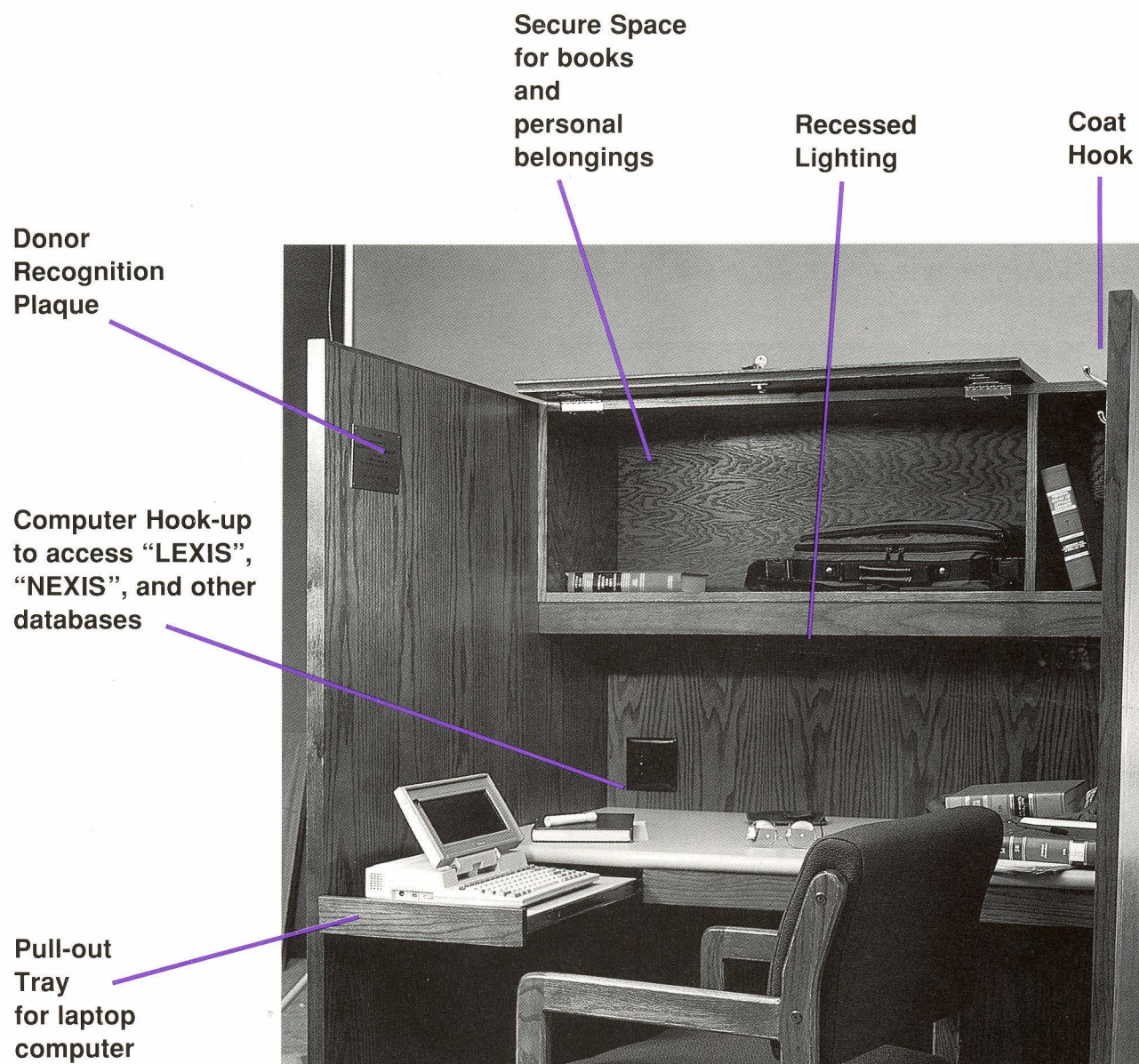
T.C. Williams has made this bold move to the legal education of the future because we realize where the legal profession is headed. We know that lawyers are information professionals who process massive amounts of data on behalf of clients. Attorneys search for information among a wide range of sources, store relevant data in convenient and accessible formats, analyze that information from the client's perspective, and deliver the information to the client in the form of helpful advice. Today's lawyers have found the computer and electronic information systems to be crucial to fulfilling their professional obligations. More than half of the lawyers in the nation's largest law firms, and fully one-third of attorneys in the smaller firms, are personally using a computer in their legal work — a four-fold increase in regular use in a four year period. And the fastest growing elec-

tronic medium in law firms of all sizes is the LAN, the local area network that is the core of our Legal Information Center.

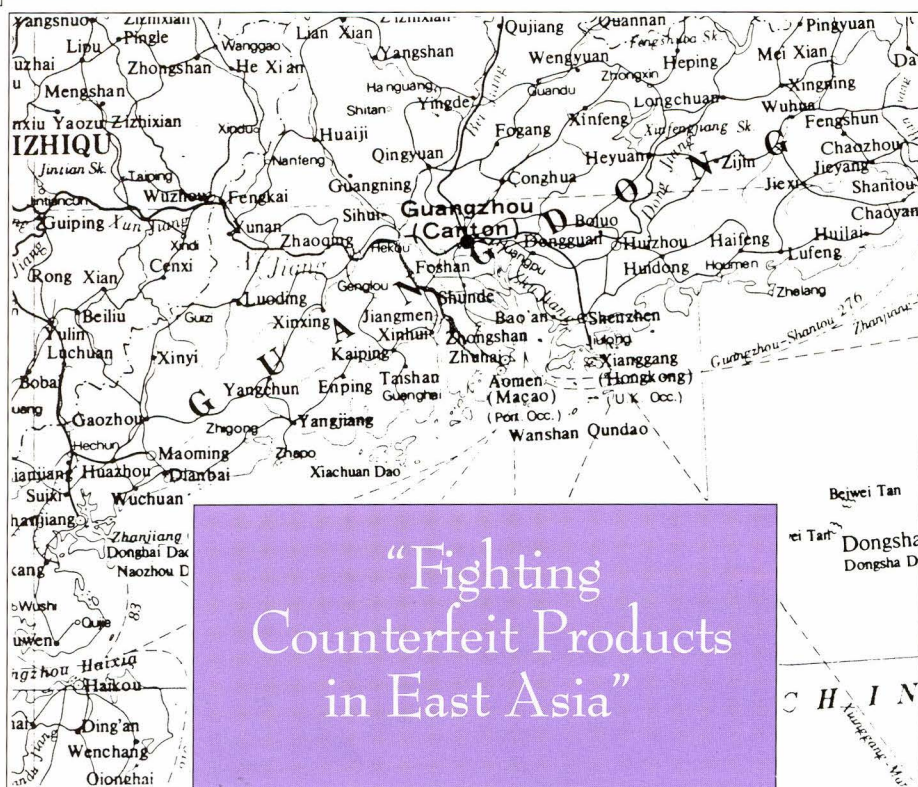
At the University of Richmond Law School, we are committed to preparing our students to function in the legal world of today and tomorrow. If you have the opportunity to visit Richmond, we hope that you will come by the Law School and see for yourself the next generation in legal education. You'll be proud of your Law School's leadership role. 











## "Fighting Counterfeit Products in East Asia"

by Jared R. Margolis

This article discusses the general approach to be used in combatting counterfeit problems in the Pacific Rim. It is written from the viewpoint of a lawyer qualified in both the U.S. and Hong Kong, and who is now based in Hong Kong and travels throughout Asia.

In East Asia jurisdictions, counterfeiting problems are most serious, and the prevalent legal and cultural attitudes toward intellectual property law in some jurisdictions in the region differ from those of the United States.

Ideally, problems with counterfeit products in Asia are prevented rather than cured; hence the importance of registration whenever it is available. The likelihood of counterfeit items entering the market can be minimized by obtaining all the available registrations for intellectual property rights. This is an important first step in avoiding intellectual property disputes in the Pacific Rim. In the case of patents and industrial designs, it is essential that this be done in the Pacific Rim at the same time as, or shortly after, it is done in the United States. Otherwise, novelty requirements may make the invention or

design unregistrable on the grounds of prior publication or application for registration in the United States.

If counterfeit problems do emerge, they must be dealt with as quickly as possible to prevent counterfeiters from making a permanent incursion into the rights of the legitimate intellectual property owner. Once counterfeiters learn that there is a market for a class of counterfeit goods and that they are able to escape prompt, successful legal proceedings, the magnitude of the problem often grows quickly.

### *Pacific Rim Legal Systems*

Two principal types of Western influence on the legal systems of Pacific Rim jurisdictions can be discerned. One such influence is English law, which was the original model for the legal systems of the British colonies, and as such continues to have a strong effect on the development of the law of former British territories.

These former colonies—which, together with territories still under British control, are often referred to as "British practice"

jurisdictions—retain an important link to England. In the former British colonies, U.K. case law still carries considerable weight. In Hong Kong, which remains a British territory, certain British case law is binding on the local courts. In addition, the statutory law of all these jurisdictions and the applicable general legal principles have been shaped by British authority. Even jurisdictions that have become completely independent of British sovereignty continue to model their intellectual property legislation to some extent on that of the U.K. Consequently, there are common elements in their case law, statutory law, and legal doctrine.

In this article, Hong Kong, which bears the closest relationship to the United Kingdom since it remains a British territory, is used as a reference point for all of the British practice jurisdictions in East Asia. Aspects of the law common to such British practice jurisdictions are discussed here in some detail in association with Hong Kong. This discussion will also be of some assistance in connection with the other British practice jurisdictions in the Pacific Rim: Singapore, Malaysia, Australia, and New Zealand.

The other influence on the laws of the Pacific Rim emanates from continental Europe. The German and French civil codes both influenced lawmakers in jurisdictions that were never part of the British Commonwealth. German influence is apparent, in particular, in Japanese and Taiwanese law. In Taiwan, German doctrine is regularly invoked in court proceedings.

These broad influences are apparent in the field of intellectual property law. Indeed, it could be argued that the technical terms of intellectual property law were shaped more strongly than other areas of law by Western because there was little or no local law governing this area. Consequently, Western intellectual property law tended to be imposed in its entirety, or in large part, rather than being melded or abridged to fit into a pre-existing body of intellectual property law.

### *The Concept of Intellectual Property*

Because of the less-developed history of intellectual property law in East Asia, it can be argued that the population of East

*Jared R. Margolis is a Hong Kong-based lawyer with the international law firm of Baker & McKenzie. He is the General Editor of IP Asia, a report on current intellectual law developments in the Pacific Rim. Mr. Margolis has delivered numerous lectures on international trade and intellectual property law. He was a visiting professor at T.C. Williams in the summer of 1990.*



Asian jurisdictions do not appreciate the effect of intellectual property rights as well as many Westerners. In particular, neo-Confucian ideology, which has had a strong influence throughout East Asia, has made the acceptance of intellectual property law—which developed in the West—difficult. Neo-Confucian ideology emphasizes learning by example, and is ill at ease with the use of creations of the intellect to pursue economic gain. Instead, it fostered the free flow of knowledge downward through a societal hierarchy. This entailed a certain amount of learning by copying the works of respected skilled artists, craftsmen, and writers. These skilled creators were not viewed as having the right to prevent the faithful reproduction of their works.

In East Asia, American-style litigation is often viewed with particular disdain, being perceived to be excessively confrontational and consuming too much of society's resources without providing concomitant benefits. It is perhaps accurate to that the rights of the individual are given less influence in the Eastern attitude toward dispute resolution. Arguably, Chinese traditions call for more discussion and flexibility in the resolution of disputes. It can be argued that arbitration, employing an experienced and highly respected arbitrator or panel of arbitrators, jibes especially well with oriental traditions of dispute resolution. In such circumstances, arbitration permits more interplay between the parties to the controversy and may permit a suitable arbitrator to act as a mutually respected eminent citizen might have done in a historical context. However, the field of application of arbitration to intellectual property disputes is narrow.

Owners of intellectual property sometimes lose sight of the true definition of the term counterfeit. In the United States, Section 45 of the Landham Act defines a counterfeit as a spurious mark that is identical with, or substantially indistinguishable from a registered mark. Express reference to counterfeits was added by the 1984 Trademark Counterfeiting Act. Asian legislation does not focus on definition of a counterfeit. However, at the risk of oversimplification, this term is best confined to the making of blatantly infringing copies without color of right. The counterfeit Rolex and Cartier watches, most of which are produced in Hong Kong and find their way to markets all over the world, are classic examples of counterfeits. In the case of counterfeit products, a

lawyer—or a lay person—usually need not engage in difficult legal analysis to determine whether or not something is an infringing item. It is clear that the copy was made in total disregard of the rights of intellectual property owner.

Counterfeit goods typically embody a copied trademark, copyright, industrial design or a combination thereof. Goods made in violation of a patent are considered counterfeit if they are held out as those of the patentee.

It should, however, be stressed that the copy must be one that infringes a valid intellectual property right. For instance, a copied book that is infringing at one time will cease to be so when the copyright in the original book expires. Similarly, any registered intellectual property right can be judicially declared invalid in any jurisdiction in the Pacific Rim, just as in the United States. Thus, an item that is counterfeit on one date may be legal copy at a later date. The situation is the same with patents and industrial designs, whose duration is shorter than that of copyright subject matter.

Indeed, the policy underlying copyright law is that copyrighted works are injected into the public domain after the author and any heirs or assigns have derived sufficient benefit from the works. The interests of the individual are balanced against those of society as a whole. The rationale for limiting the period of protection for patents and industrial designs is the same.

### *Preventive Measures: Registration*

Preventive measures such as registration are preferable to dealing with counterfeit problems after they have arisen. Usually, the best preventative measure is registration of all applicable trademark, patent, and similar rights.

The application of copyright law in the Pacific Rim differs considerably from that in the United States. In British practice jurisdictions in particular, there is the concept of "industrial copyright" under which copyright can be used to protect product configuration. These jurisdictions may also permit the plaintiff to obtain conversion damages that amount to more than the damages sustained. This, combined with the legal costs normally awarded to the successful plaintiff in British derived legal systems, can be a powerful remedy. However, these advantages are absent in the law of those jurisdiction

that derive their law from that of continental Europe.

However, copyright registration is the exception rather than the rule in the Pacific Rim. Those countries that are part to the Berne Convention cannot require as a prerequisite for copyright subsistence. Berne Convention parties include Japan, Thailand, Hong Kong, Australia, and New Zealand. None of these countries require copyright to be registered. However, Japan does have a copyright registration system, and registration there provides evidentiary advantages. A copyright owner should register copyright prior to commencing litigation if it was not initially registered.

### *Protecting Product Configuration*

Considerable advantage may accrue from the fact that the copyright status of British practice jurisdictions include the concept that a copyright in technical drawings can be infringed by copying the corresponding three-dimensional item. In such circumstances, courts find that the technical drawings were copied indirectly—through the intermediary of the three-dimensional item—resulting in copyright infringement. It is the copyright in the two dimensional plans that deemed to be infringed, although the defendant need never have seen them. Thus, product copying can be prevented in these jurisdictions in circumstances where the copying may be permissible under American law.

The protection thus accorded is similar to that formerly available under certain American state laws known as "plug-moulding statutes." However, the U.S. Supreme Court recently held that this type of protection was unconstitutional because (at risk of oversimplification) it conflicted with the legislative choice of what subject matter should and should not be patentable. This view stands in stark contrast to that now applied in the United Kingdom and in British practice jurisdictions.

### *Trademark Registration*

It is important to register trademarks in Pacific Rim countries. Registration provides important evidentiary advantages in the event that enforcement is necessary. It avoids the pitfalls of legal systems with which U.S. intellectual property owners



are unfamiliar and, in the case of jurisdictions that derive their laws from continental Europe, which have no system of discovery. Moreover, most Asian jurisdictions permit a trademark to be registered before it is used. This has two implications: First, it means that the legitimate owner of the trademark has the advantage of being able to register it prior to its introduction into the market. Second, it has the disadvantage that, without prior registration, the legitimate owner risks the possibility that someone else will register the trademark. If a registration is obtained by a third party, cancellation proceedings in such circumstances are often difficult and time-consuming.

Most Asian jurisdictions use the International Classification of Goods agreed upon in the Nice Treaty. Japan, Korea, and Taiwan are notable exceptions. Nonetheless, there is a degree of uniformity of classification in Asia, and this simplifies multi-country trademark registration.

It should be noted that, in Hong Kong and other jurisdictions that derive their trademarks law from England, a registered trademark can be infringed only where the offending goods are the same as those for which the mark is registered. Thus, if a mark is registered specifically for cigarettes and a counterfeiter applies it to cigars, this does not constitute trademark infringement even where it appears that consumer confusion will ensue.

In such circumstances, the intellectual property owner must bring an action for passing off. To succeed, aside from providing damages, the owner must establish that the magnitude of his or her reputation is sufficiently broad to encompass the goods on which the counterfeiter is using the trademark. This tends to make the difference on whether preliminary injunctive relief is available. Similarly, trademark infringement is more narrowly defined in other East Asian jurisdictions such as Taiwan and Korea.

One of the corollaries of this rule is that it is important to obtain a trademark registration for as wide a range of goods as possible. This is more feasible in East Asian jurisdictions than in the United States because actual use is not a prerequisite to obtaining registration. Typically, an applicant for trademark registration in East Asia needs no more than an intention to use its trademark.

In the case of the civil law countries in the Pacific Rim, if the trademark is not registered for goods that could be infringed

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IDEOLOGY  
EMPHASIZES  
LEARNING BY  
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COPYING THE  
WORKS OF  
RESPECTED  
SKILLED ARTISTS,  
CRAFTSMEN,  
AND WRITERS.

by the type of goods being manufactured by the infringer, it is necessary to action for infringement of unfair competition legislation or of the general delictual provision of the civil code. Both of these forms of legal action are considerably more difficult to win than a trademark infringement action. In the former cases, the plaintiff must prove that the trademark is so well known that the defendant's use of a similar trademark constitutes a deceptive misrepresentation.

U.S. companies often use their intellectual property rights by way of licenses, rather than by actually manufacturing the goods themselves. In some cases this is by choice, in others it is due to legal or regulatory hurdles preventing or complicating foreign investments. A detailed discussion of this issue is beyond the scope of this article, however the problem should be borne in the mind to the extent that it may weaken the rights of the intellectual property right owner and thereby facilitate counterfeiting activities.

In some jurisdictions licensing is made difficult by law and regulations requiring that a local trademark owner, rather than a licensee, use the trademark, or permitting trademark licensing only within the broader context of a technology transfer agreement. For example, trademark licensing in Taiwan and Korea can be problematic in this respect.

## Patents and Designs

Most Asian countries grant patents on a first to file basis. The combined effect of novelty requirements and the Paris Convention is that patent applications must be filed in all convention countries within one year of filing in the convention country. If the patent is not applied for within that period, the invention will fall into the public domain in those countries where no patent was obtained. Certain Pacific Rim countries are not parties to the Paris Convention. Taiwan and Thailand are problematic in this respect. A Taiwanese or Thai patent must be applied for at the same time as foreign patents are sought. If this is not done, the invention is usually unprotectable in these jurisdictions.

It should, however, be noted that in the case of Taiwan, there are regulations which may permit the prohibition of export of goods to jurisdictions where a judgement has been rendered that such goods infringe on intellectual property rights, including foreign patents.

Hong Kong does not have its own industrial design registration system. Designs must be registered in the United Kingdom, affording the registrant the right to damages for infringement in Hong Kong when they are advertised in the territory or when they or when notice is given to the infringer. Even without advertisement or notice of the design registration, an injunction will be granted to prevent infringement of the registered design. The United Kingdom is a party to the Paris Convention so that the filing date in the first Paris Convention country will serve as a priority date in the United Kingdom, if the filing date is within six months of the first filing date in a Paris Convention country. Design registration in the United Kingdom is relatively inexpensive and rapid, and the protection lasts for 15 years at present, but it will be increased to 25 years when the 1988 U.K. Patents, Designs and Copyright Act comes into effect.

Industrial designs are also registerable in Taiwan, The People's Republic of China, Korea and Thailand. Since Taiwan and Thailand are not parties to the Paris Convention, applicants for registration in these countries cannot benefit from an earlier filing date in another country. China and Japan are parties to the Paris Convention, and so one can benefit from an earlier filing date in the first such country, if it was within the preceding six months.

In all jurisdictions where industrial



design registrations are available, they should not be obtained. The cost is usually minimal in relation to the insurance that they provide.

### *Arbitration to Resolve Disputes*

In most situations of infringements of intellectual property rights, arbitration will not be appropriate, in that there will be no contractual link between the owner of the right and the infringer. Typically, then, actions analogous to tort actions, or criminal actions, will provide the sole recourse. In the latter case, the proceedings are generally brought at the discretion of the local public authorities, who must be persuaded to prosecute by the intellectual property right owner. Thus, the use of arbitration in the context of intellectual property disputes remains more the exception than the rule. This form of dispute resolution is particularly restricted in its application in the concept of counterfeiting, where there is typically no past or present contractual relationship. However, where there is a contractual context, arbitration may be the most effective way of dealing with a dispute between two parties.

Arbitration and mediation as means of dispute resolution appear to mesh smoothly with Eastern concepts of dispute resolution. In particular, arbitral procedures employing respected arbitrators and involving extensive discussion with each of the parties involved appear likely to earn the respect of the parties. These procedures would be particularly appropriate in circumstances where the arbitrators are recognized to possess technical expertise in the particular type of subject matter involved in the controversy.

It may be helpful to include arbitration clauses in agreements with manufacturers and licensees in the Pacific Rim. Problems may later develop between the intellectual property right owner and a present or former manufacturer, licensee or joint venture partner. A terminated distributor may continue to market the licensed goods after termination, or may market other goods that differ so slightly from those that were formally licensed that they were infringing.

However, it is clear that the former licensee can market goods that differ sufficiently from those that were licensed that they are non-infringing. In such circumstances, arbitration can serve to resolve the dispute, stipulating the scope of

the right of the intellectual property right owner and determining specifically in what conduct the alleged infringer can engage. There must, of course, be a means of enforcing the arbitration decision. In Japan, Hong Kong, and some other jurisdictions, this is feasible. However, in Pacific Rim jurisdictions with less developed legal systems, it may prove more difficult to do so. Nonetheless, the potential difficulty in enforcing an arbitration award in some jurisdictions must be balanced against the fact that court proceedings in such jurisdictions may be very time-consuming, subject to lengthy court backlogs, and to judicial inexperience in technical areas of intellectual property law, and plagued by procedural hurdles. In this respect, a rapid, skilled and efficient arbitration process provides a relatively greater advantage than it would in the context of a jurisdiction whose legal system is so effective that it leaves little to be desired.

### *Anti-Counterfeiting Measures*

In most cases, intellectual property rights owners who encounter counterfeiting problems in the Pacific Rim should formulate a policy to deal with such problems, rather than simply deal with them on a case-by-case basis outside of a wider program. Such a policy is best formulated after careful consideration of the protectable rights of the intellectual property owner.

A trademark, patent, or industrial design that has been registered affords the registered owner substantial advantages in enforcement proceedings. Indeed, the traditional disadvantage of trying to enforce intellectual property rights in certain East Asian jurisdictions may be balanced against the respect for governmental authority under which intellectual property registrations are granted. Furthermore, legal proceedings are taken very seriously in most Pacific Rim jurisdictions, being viewed only as a means of last resort for settling disputes that cannot be resolved by discussion or negotiation.

Registered rights are generally much more easily enforceable than unregistered ones. This is perhaps more true in jurisdictions in East Asia than in the United States. In East Asia, it is generally quite difficult to bring an action to enforce an intellectual property right that has not been registered in the particular jurisdiction where the counterfeiting occurs. The

intangible aspects of intellectual rights—which is partly responsible for the difficulty in enforcing them—can be at least partially offset by their registration with competent authorities. The certificate of registration may carry an element of authority and tangibility which prompts counterfeiters to desist.

In East Asia, counterfeiting is often a problem of international dimensions. There is considerable fluidity in the choice of production locations available to counterfeiters. For example, if an enterprising counterfeiter initially undertakes production in Hong Kong, finds it to be a profitable venture, and then is forced to cease his operation by successful enforcement measures in Hong Kong legal proceedings, he may then shift his production operations to another East Asian jurisdiction. This is particularly the case where the counterfeit items are intended for the United States or another overseas market such as the European Economic Community. Consequently, it may be necessary to adopt a regional approach to anti-counterfeiting in the Pacific Rim. It is often ineffective to take enforcement measures in only one jurisdiction in the region. Furthermore, determining the degree of production facility mobility and learning immediately of the relocation of the production facility requires a means of collecting information about pertinent counterfeiting activities. This is typically done through a network of private investigators who are well-versed in counterfeiters' methods of operation.

### *An Anti-Counterfeiting Program*

Litigation is not necessarily the principal component of an anti-counterfeiting program, although it is typically the last resort and the threat from which the intellectual property right owner derives leverage.

Gathering intelligence about counterfeiting activities is important. It is necessary to identify the nature and extent of the problem faced by the owner of intellectual property rights. Such intelligence-gathering should be done on such a regular basis by the distribution of the legitimate products of the intellectual property right owner. Distributors should, in turn, have their own network to gather information on counterfeiting activities. The principal elements in this network will be their own contacts and all those parties further along in the chain of distribution



with whom the distributors will typically be in regular contact. The distributors should also remain in close contact with intellectual property owner's legal representatives.

Private investigators are often crucial for two reasons. They can provide valuable intelligence to supplement and corroborate the information provided by the intellectual property owner's own distributors and connections, and they can place trap orders or otherwise procure evidence or information needed to persuade the authorities to prosecute or form the basis for civil proceedings. Unfortunately, in South Korea, such investigations are not permitted, although some intellectual property owners are believed to have engaged in these activities anyway.

Determining the appropriate action to take in the face of a counterfeiting problem is partly a matter of reviewing the strength of the case with local associates experienced in intellectual property law, and partly a matter of familiarity with local practice and procedure. As in the United States, the strength of the case will determine the relief to be sought. In the face of a blatant copying of an item that is the subject of a registered intellectual property right, both *ex parte* interim relief and criminal prosecution may avail. It must be decided whether the legal position of the intellectual property right owner is strong enough to justify the expense of

seeking preliminary relief.

Unlike courts in the United States, British practice jurisdictions, as a matter of course, award costs against the unsuccessful party or parties in an action. These costs are substantial—typically amounting to 65 percent or more of actual legal expenses incurred—and mitigate against bringing civil action of any kind unless there is a good prospect of success.

In Pacific Rim countries other than British practice jurisdictions, legal costs awarded generally cover no more than court costs and are not a meaningful proportion of actual legal costs incurred by the litigant.

In British practice jurisdictions, discovery is available and can be a valuable element in a successful case against an infringer. In Pacific Rim jurisdictions whose law is not based on that of England, there is no mechanism for discovery, and this must be taken into account in evaluating the likelihood of success at trial. The Judge does have the discretion to order the production of relevant documentation and evidence, but the effect of this discretionary power differs from that of an adversarial right.

Publicity can serve as a means of deflecting counterfeiters into the production of other products. Countries in the Pacific Rim receive many different forms of intellectual property subject matter from the United States and other Western countries. Often many of them can be counter-

feited equally profitably. If one item carries with it a particularly great threat of legal proceedings, counterfeiters will usually gravitate toward another one. Thus, if one intellectual property right owner puts counterfeiters to the expense of defending litigation, they are likely to switch to some other counterfeiting activity, the rightful owner thereby attaining his or her goal. The same thing can be accomplished by an enforcement publicity campaign, without the necessity of bringing legal pro-

ceedings. For example, advertisements can be placed in the relevant trade publications, setting out intellectual property rights that will be enforced. Even if the advertisement does not independently serve as a deterrent, it may do so when combined with a single successful well-publicized enforcement action.

## Enforcement Measure

In most cases of counterfeiting, it is impractical for the intellectual property owner to wait until a trial judgement for an order terminating the counterfeiter's conduct. There are usually long delays before a gull trial, and in the meantime, while the case is pending, the plaintiff could be irreparably harmed. In British practice jurisdictions, it is possible for an intellectual property owner to obtain a civil search and seizure order on very short notice. This is known as an Anton Piller order, which is an *ex parte* order permitting the plaintiff's lawyer to enter the premises of the defendant and take into custody specified infringing goods found there. The plaintiff's legal position must be strong, and there must be a risk that the defendant would dispose of evidence prior to trial if given advance notice of the court proceedings. The other jurisdictions in the Pacific Rim do not have an analogous civil remedy. This, combined with the lack of discovery procedures, may make it more difficult to succeed against counterfeiters outside of British jurisdictions.

In all jurisdictions, preliminary injunctive relief is available if the plaintiff's legal position is sufficiently strong. In some jurisdictions, preliminary injunctive relief is available if the plaintiff's legal position is sufficiently strong. In some jurisdictions, a certain amount of sentiment in favor of local defendants being sued by foreign corporations may be occasionally encountered among court officials. As intellectual property rights become more widely recognized and understood in East Asia, this problem will probably diminish.

A successful plaintiff is typically entitled to damages or the defendant's profits. Small counterfeiters often go out of business after a preliminary injunction is granted, but before final judgement. It will be apparent that, in cases of counterfeiting, the most difficult aspect of enforcement is finding the infringer and

IN PACIFIC RIM COUNTRIES OTHER THAN BRITISH PRACTICE JURISDICTIONS, LEGAL COSTS AWARDED GENERALLY COVER NO MORE THAN COURT COSTS AND ARE NOT A MEANINGFUL PROPORTION OF ACTUAL LEGAL COSTS INCURRED BY THE LITIGANT.



assembling the necessary evidence, rather than putting forward the necessary legal arguments at trial.

Pacific Rim jurisdictions have laws making it a criminal offense to knowingly manufacture counterfeit goods infringing registered intellectual property rights. Generally, prosecutions under such criminal provisions must be brought by public authorities. It is sometimes a daunting task for the intellectual property owner to persuade them to act based on the evidence that has been assembled. American intellectual property right owners should retain local counsel experienced in dealing with law enforcement authorities.

Under the law of most Pacific Rim jurisdictions, it is also possible to persuade the law enforcement authorities to conduct a raid to search for and seize infringing goods. Law enforcement agents usually require sound evidence of a counterfeiter's activities before agreeing to do so. However, when such criminal raids are conducted they can be very effective, as long as advance notice to the counterfeiter has not been leaked out. The evidence obtained can usually be used in civil proceedings as well as in the criminal action.

## Conclusion

At the legal level, counterfeiting problems can generally be dealt with effectively in the Pacific Rim. It is essential to take precautionary measures as early as possible. Intellectual property registrations are important, and carefully drafted agreements with cooperative and well-informed local licensees are extremely helpful.

Problems may arise at the level of enforcing the legal rights in place, because of the persistence and mobility of many counterfeiters. It is important for intellectual property right owners to have a means of gathering information on counterfeiting activities in the Pacific Rim. In many cases, the difficulty lies not in establishing the legal rights of the intellectual property right owner, but in ensuring that the infringers can be identified, and that sufficient evidence can be obtained for legal proceedings.

In dealing with counterfeiting in the Pacific Rim, one should be familiar with the nature of the various legal systems, and with the local attitudes toward intellectual property. The nature of the relief granted often differs widely from that of the United States. ♪

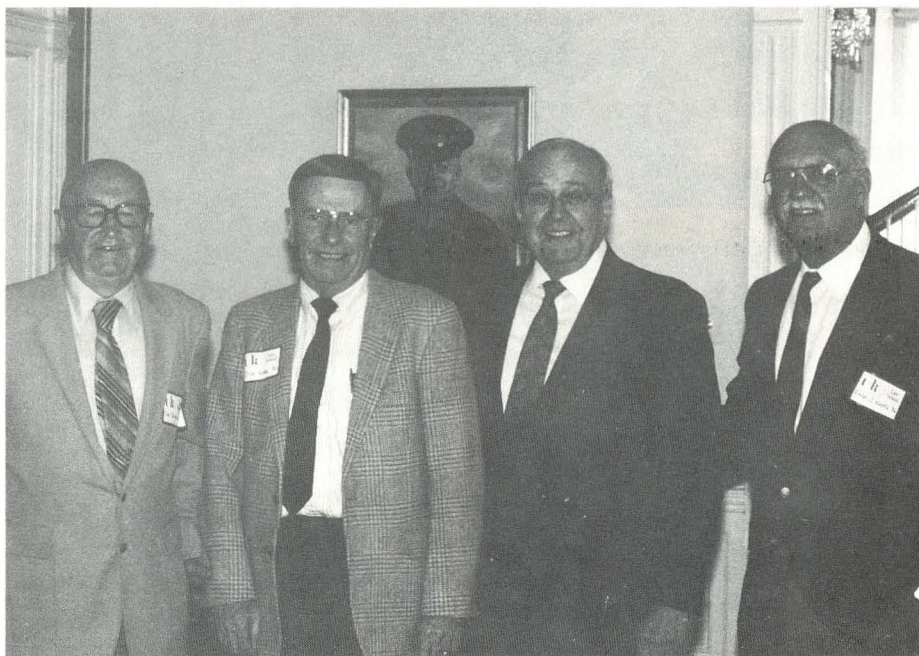
One year after the Law School's 120th anniversary of its founding, T.C. Williams still has a lot to celebrate as "T.C. Williams Week" highlighted faculty, alumni, staff, and other friends.

The Law School marked another anniversary of its founding with its second chapter of "T.C. Williams Week." The Week is essentially a carry-over from last year's celebration of the Law School's 120th-year anniversary of its founding. "We had too many things we wanted to do and so little time," said Dean Harbaugh of the reason behind a second week, "the only avenue to take was to have another week."

The week of October 7-12 got under way on Monday with the Columbia Society Luncheon, held at Columbia Hall at the corner of Grace and Lombardy streets, home of the Law School from 1908 until 1953. Over 25 alumni who were graduated prior to 1954 enjoyed a luncheon of sharing memories of days of old, when coats and ties were *de rigueur* law school dress, and deans and professors were larger-than-life.

Alumni who graduated prior to 1954 were officially recognized as "The Columbia Society" in honor of this group's unique affiliation with the Law School.

Tuesday's event was a Breakfast Lecture, featuring Samuel N. Levin, visiting professor of law. Professor Levin's lecture, "1991 'Deal Law': Picking Up the Pieces," addressed the changes in corporate business throughout the 80s. Specifically, Professor Levin referred to mergers & acquisitions, an area in which he played an active role with Shearson-Lehman Brothers. Professor Levin described the 80s as an exciting time when changes in law allowed groups to purchase portions of bloated conglomerates; companies which had been formed in the 60s and 70s and which grew so large in size and diversity of products that they no longer served the interests of the stockholders. The take-over climate of the 80s shattered monolith corporations, creating an even playing field for competition. Following the lecture, Professor Levin took questions and spoke with alumni.



(l to r) Bennie Dunkum '52, Dick Rakes '51, Otis Nuckols '51, and Elmer Nocht '52 at the Columbia Society luncheon.



# Law Week '91

**T**he Legal Forum Lecture was the hallmark of Wednesday when William Griffith Thomas '63 and Thomas N. Boggs spoke to an audience of 70 on the topic, "The Lawyer as Lobbyist." The lecturers were introduced by Anthony F. Troy '66 of Mays & Valentine. Mr. Troy, a former Attorney General of Virginia and current lobbyist, described the legislative process as two or more groups coming together to the table with clear ideas in mind as to what a piece of legislation should be or say... then begins the process of give-and-take where concessions are made and points

are traded, until the final product is created. Mr. Troy quipped that the legislative process is equivalent to "sausage making... and if you've ever seen sausage made, you'll know exactly what I mean." Mr. Thomas, President of the Alexandria-based firm of Hazel & Thomas, and an influential lobbyist in the Virginia General Assembly, spoke on lobbying at the state level. Mr.

Boggs, partner in the Washington, D.C. law firm of Patton, Boggs & Blow, is a prominent Capitol Hill lobbyist. He was named by *Regardies* magazine as one of Washington's "Power 100," which was cited by Mr. Troy: "[when planning to lobby for a bill], the question is not 'Can I afford [Mr. Bogg's] services ...', rather, it is 'Can I



Thomas N. Boggs, William G. Thomas '63, and Anthony F. Troy '66 address student on "The Lawyer as Lobbyist" as part of the Legal Forum.



Samuel N. Levin, visiting Professor of Law, on the "Roaring 80s" at the Breakfast Lecture.

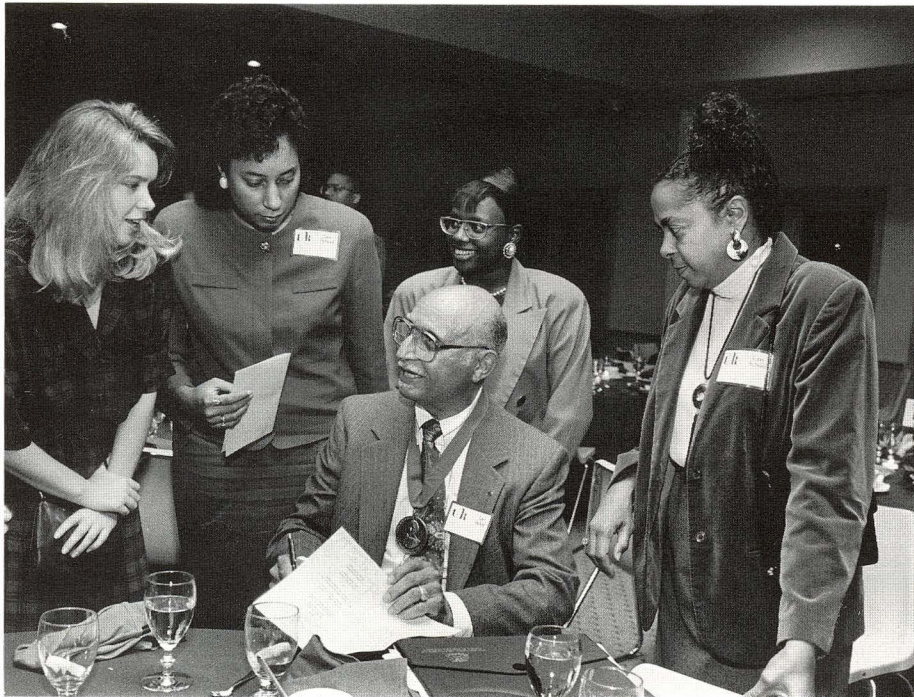


afford not to have Mr. Boggs services.'" The two gentlemen gave excellent speeches from their respective experience, and at the reception following the lecture, each answered questions from students and alumni.

The Placement Office sponsored its annual Judicial Clerkship Seminar on Thursday. The program provides an opportunity for students interested in clerkships to discuss duties and responsibilities of clerks, and related issues such as the application process for clerkships, the benefits of clerkship, and so on. Panelists included the Honorable John D. Butzner, Jr.; the Honorable Reid M. Spencer '51; Kirsten Barren '91; and Claire Cafritz Carr '90. The discussion was moderated by Beverly Boone and Professor J.P. Jones.

Thursday evening was the Tenth Annual Scholarship Reception and Dinner to thank scholarship donors and to recognize scholarship recipients. This year's honored guest was Oliver W. Hill, partner in the law firm of Hill, Tucker & Marsh. Mr. Hill became the fifth recipient of The William Green Award for Professional Excellence. Mr. Hill was recognized for his work and contribution to the civil rights movement, most notably at the height of Massive Resistance. The William Green Award was established in honor of the ideals of Judge William Green, a distinguished Virginia lawyer and judge who was one of the three original Richmond

College law professors. Mr. Hill became the first non-jurist to receive this honor, whose previous recipients include: Sandra Day O'Connor, Associate Justice of the U.S. Supreme Court (1990); the Honorable Robert R. Merhige, Jr. '42, United States District Court Judge (1989); the Honorable Lewis F. Powell, Jr., Associate Justice of the U.S. Supreme Court, ret. (1988); and the Honorable Harry L. Carrico, Chief Justice of the Supreme Court of Virginia (1987).



Oliver W. Hill talks with students after receiving the William Green Award at the 10th annual Scholarship Dinner.



Sharon Moon '88, Dan '86 and Gloria '88 Freye at Fall Gathering.



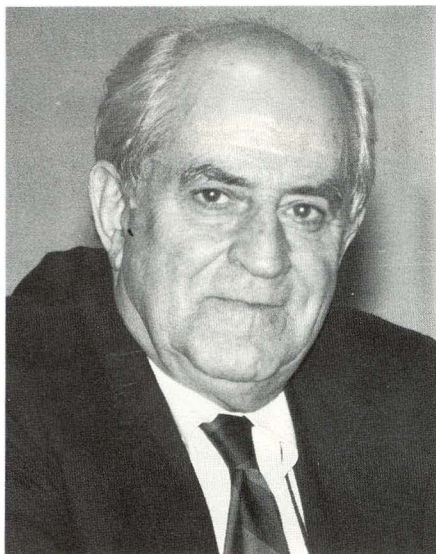
Eric Schwartz '87, Leland Mahan '64, and Reggie Jones '68 during Fall Gathering.



# Law Week '91

Monday - 10:00 AM - 12:00 PM  
 Wednesday - 10:00 AM - 12:00 PM  
 Thursday - 10:00 AM - 12:00 PM

**T**he Barnett Memorial Golf Tournament began Friday's events as 16 golfers took to the links at The Crossings. On Friday afternoon, the Law School Association Board of Directors met at the Omni Hotel, where Sara Redding Wilson '78 chaired her second assembly as President. During the meeting, reports were given on the state of the Law School by Joseph Harbaugh, Dean; a University Update was given by D. Chris Withers, Associate Vice President for Development; a Law Fund report was given by Philip Cox, Law School Campaign Associate; and the Nominating Committee Chair, Michael Rigsby '69, presented a slate of five candidates to fill Board vacancies. The candidates were Kenneth J. Alcott B'77, L'83, with the Richmond office of Hunton & Williams; Verbena M. Askew '80, City Attorney in Newport News; F. Andrew Carroll '77, partner in the Alexandria firm of Land, Clark, Carroll & Mendelson; W. Lee Melchor W'81, L'86 of the Attorney General's Office in Richmond; and William M. Ryland R'76, L'79, of Manassas.



Robert R. Merhige '42, guest speaker at Reunion Dinner.



Bud McCaul '41, Lydon Harrell '41, and Judge Merhige '42 chat after Reunion Dinner.

Topping-off the work week was the Annual Fall Gathering, held in the James River Ballroom of the Omni Hotel. There, over 500 alumni, including members of the Law School faculty and administration, met to discuss old times and current caseloads.

Saturday was the time to unwind. Following the Alumni General Meeting, where the business of note was unanimous approval of the slate of names of for the new members on the Board of Directors, alumni gathered in the Reception Room for a luncheon of quiche, biscuits, fruits, danish, teas and cinnamon coffee. At the end of the brunch, Dean Harbaugh gave alumni a glimpse of our future by way of a hard hat tour through the Law School.

The J. Westwood Smithers Memorial Tennis Tournament was reinstated this year, and contestants vied for trophies in a round-robin competition. Taking

top honors was Michael HuYoung '82, who dominated the field with his smooth groundstrokes and well-placed volleys. Runner-up was Ronald J. Bacigal, Professor of Law, who devoured competitors with his tenacity, grit, and a solid all-court game. In the doubles final, Professor Bacigal and Philip Cox, of the Law School Development Office, pulled-out a Houdini victory, turning the tide on the team of HuYoung and Kevin "K.T." Tydings '91.

Class reunion was held Saturday night in the Alice Haynes Room of the Tyler Haynes Commons. It was a tasteful, cheery affair as the classes of '51, '56, '61, '66, '71, '76, '81, and '86 enjoyed a cocktail reception and a buffet dinner as they listened to the Honorable Robert R. Merhige, Jr. '42 share his remembrances of law school and his confidence in the future of T.C. Williams.



## VIRGINIA UNION UNIVERSITY'S LAW SCHOOL: PORTRAITS OF SUCCESS

by Yvette Stackhouse '92

**F**rederick Douglas wrote, "Our destiny is largely in our own hands. If we find, we shall have to seek. If we succeed in the race of life it must be by our own energies, and our own exertions. Others may clear the road, but we must go forward, or be left behind in the race of life." In sum, Frederick Douglas was talking about Ujima: Self help or taking responsibility for the community. Education was viewed as important in controlling our destiny. In the late 1800s, of the few colleges started for blacks, they were begun with this kind of spirit and vision.

Virginia Union University of Richmond, Virginia, started in 1865, was one institution that took on the responsibility of providing a quality education to young black students. In October 1922, Virginia Union expanded its beginning vision and opened a law school to provide local blacks the opportunity for a legal education. Virginia Union's law department offered a four year evening program leading to the LL.B., today's Juris Doctor. Professor Peter James Henry, who earned his LL.B. in 1907 from Howard University and his A.B. in 1904 from Virginia Union, was instrumental in establishing a law department at his alma mater. Under his leadership, he and six other local black attorneys took time to teach the evening school.

When the law school started in 1922, there was a large demand for its course offerings, but when it closed in 1931, the demand had dropped significantly, due in part to the depression. We look at the accomplishments of at least two of its graduates then we would see the enduring contributions of the law school.

Two graduates of The Virginia Union University Law School went on to live very productive lives due to the opportunities given them from their legal education. However, these two graduates lived

very different lives. Spottswood Robinson, Jr. and Leroy E. Ragland were members of the class of 1926. This is where their common paths end.


Before entering Virginia Union, Spottswood Robinson, Jr. appeared to be destined to be a businessman. Young Robinson worked with his father, who owned a prosperous saloon business in Richmond before prohibition. But with the onset of prohibition, young Robinson co-founded a real estate business in 1916. He assumed sole proprietorship of the business in 1919 and built it into a thriving enterprise. Young Robinson wanted more. He entered Virginia Union's Law School in 1922. After graduating, he passed the Virginia State Bar in 1926. Robinson returned to Virginia Union the following year as a faculty member and taught property and partnerships. Besides teaching, he was also a real estate broker and a practicing lawyer. After Virginia Union closed its law department, Robinson continued his legal practice in Richmond. His practice matched the success his ongoing real estate business had already realized and for many years he served as the vice-chairman of Virginia Mutual Benefit Life Insurance Company as one of the vice-presidents of the Consolidated Bank and Trust Company, both of which were black owned.

Leroy E. Ragland's story is quite different from Robinson's. While attending Virginia Union's law school at night, he was a bank teller at the black owned Mechanics Bank in Richmond. After graduating from Virginia Union he studied diligently under the apprenticeship of Judge Leon Bazile to pass the Virginia State Bar. He passed it in December of 1927. Because of the economic uncertainties for black attorneys in those days, his aspiration of opening a law office in Richmond was never realized. Ragland had a family to consider. He and his wife, Emma Jane, had five children and steady work was needed right away. He had been inspired to go to law school by his mother, Sarah, and his wife. Emma Jane urged her husband to leave Richmond, the cradle of the confederacy, and pursue his dream of "really" practicing law in Washington, D.C. She was ready to pack up and leave at a moment's notice to go and make a life in Washington. During that time, Washington was the place for most successful black attorneys to be. Instead of going to Washington, Ragland remained in Richmond, where he worked at the black owned Southern Aide Life

Insurance Company for over thirty years examining policies.

Working at a black owned business was one sure way of having income, but in those early years the salary at Southern Aide was not enough. His daughter, Naomi Jones, remembers that during her early year of growing up, her father had to work four jobs at one time. Leroy encouraged all of this children to do their best in school. All five of his children finished college. And to his credit he encouraged one future dentist, one future teacher, one future social worker, one future postal worker, and one future minister to do their best and to give vision and hope to others, including their children. He had seven grandchildren, six of whom graduated from college and went on to do graduate work. I am proud to be counted as one of those grandchildren.

Although Robinson, who died in 1954, and Ragland, who died in 1968, led different lives, they both took on the responsibility that life handed them and left an undying legacy. Their legacy was not only reflected in the lives of their descendants, but also in the lives of those they served. Both men met particular needs in the black community by giving of themselves and serving others. For Robinson, his serving was demonstrated not only in his legal and real estate professions, but also in his willingness to teach those that followed him at Virginia Union's Law School. For Ragland, his serving was demonstrated in his willingness to allow people into his home, and at times to go to their homes, to help with some legal matter, even outside of his already demanding schedule.

Vision, opportunity, success, and responsibility are four powerful words. Virginia Union had the vision to offer its students a quality education and from that vision was offered the opportunity for success. Their students, Professor Peter James Henry, Attorneys Spottswood Robinson, Jr., and Leroy E. Ragland, all demonstrated that they knew what those four powerful words meant. And, each took the opportunity to succeed one step further, by taking on the responsibility of giving that vision, opportunity, and success to others. Henry, Robinson and Ragland would join with Frederick Douglas in saying, "Our Destiny Is Largely In Our Own Hands." And, they would continue to say to our generation that we must use it to benefit others so that we all can reap its rewards now— and for generations to come. 



## CENTER

## ETHICS CLE

In the 1600s, the House of Burgesses passed a law banning "all mercenary lawyers" from practicing in the courts of Virginia. The governing body found that the lawyers in Henrico, Williamsburg, and James City County were "more interested in their own inordinate lucre than in the well being of their clients."

This year, the Commonwealth again has acted to ensure that her lawyers act within the finest principals of our profession. Lawyers are now required to complete at least two hours of continuing legal education in the area of professional responsibility. To help meet this mandate, the Merhige Center, in cooperation with the Environmental Law Section of the Virginia State Bar, conducted a seminar on ethical issues faced by the environmental law practitioner.

Richard C. Vorhis '83, Assistant Bar counsel, presented a paper on the ethical issues faced by the governmental lawyers enforcing environmental laws. Mr. Vorhis began by exploring the government attorney's difficulty in ascertaining his client. Does the government attorney merely represent the particular agency assigned in an adversarial system or does the government attorney have a responsibility to the public at-large? According to Mr. Vorhis:

Although this notion of representing the "greater good" would at first blush appear [difficult]... this is already a factor considered by criminal prosecutors in their dual capacities as both an advocate and a seeker of "justice." The Virginia Code of Professional Responsibility already directs the government lawyers to make determinations of what is in the best interest of the public. Disciplinary Rule 8-102, the Code of Professional Responsibility, mandates that a "public prosecutor or other government lawyer in criminal litigation. . . shall temper certain actions which otherwise might be taken in the role as an advocate with a sense of justice and fairness."

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Similarly, ECF8-11 speaks about the discretionary power relative to litigation

By W. Todd Benson '82

held by the government lawyer and counsels against instituting or continuing litigation that is "obviously unfair." This ethical consideration also addresses a government lawyer in a civil action and opposes the same responsibility to seek justice and further directs such attorney to "develop a full and fair record..."

Ultimately, Mr. Vorhis concluded that government attorneys in Virginia have a higher duty than simply to win on behalf of their respective agencies. Tempered with their responsibility is the obligation to seek a fair hearing and justice.

Of further interest was Mr. Vorhis' discussion of DR7-104 which prohibits threatening criminal prosecution in order to achieve a civil settlement. This subject particularly is apropos to environmental law because so many of the elements of civil violations equally can be prosecuted as (nonscienter) crimes. Consequently, a target of a violation investigation must instantly worry about whether the sovereign is seeking to punish him civilly or criminally. Based upon legal ethics opinions issued by Mr. Vorhis' office, he concluded that DR7-104 does apply to the government attorney who is called upon to deal with the dual criminal and civil responsibilities. His conclusion was that such attorneys must be careful in how they proceed.

David Richman, a partner with the Philadelphia law offices of Pepper, Hamilton & Scheetz, then explored the strained relationship between the obligations to report environmental hazards under the law and the mandate to protect client confidences and secrets. Rather than simply focus on correct or incorrect answers to hypothetical questions, Mr. Richman went in-depth on how to approach and resolve ethical dilemmas. For example, he discussed how any "sophisticated" firm should have an ethical review panel. In this way, a format exists for an attorney to get a review when he believes a senior

attorney has overruled his or her decision resulting in a real or perceived violation of the Code of Professional Responsibility. Mr. Richman also spent considerable time discussing how to negotiate with corporate and individual clients who insist on a course of conduct which conflicts with the professional requirements of the profession.

Mr. Richman did not shy away from the problematic questions: Suppose your client had engaged in lawful conduct in the past. It now is recognized that, as a result of that past lawful conduct known only to your client and you, "methyl/ethyl death" is leaking into the municipal water supply. The dosage leaking greatly exceeds all state and federal health standards. Under no scenario can this fact alone be recognized as criminal conduct. What is the lawyer's responsibility in terms of preserving the confidences and secrets of his client in the presence of methyl/ethyl death in the municipal water supply? This hypothetical question is correctly answered: The secret of the client is to be preserved by the attorney. How many illnesses, cancers, or deaths linked to a suspected course of methyl/ethyl death could a silent lawyer silently observe? Because of possible situations such as this, each environmental practitioner was forced to ask whether he is strong enough to make the "correct" decision.

The ethics seminar was quite successful. I left wishing we had one or two more hours to discuss the issues presented by Mr. Vorhis and Mr. Richman.

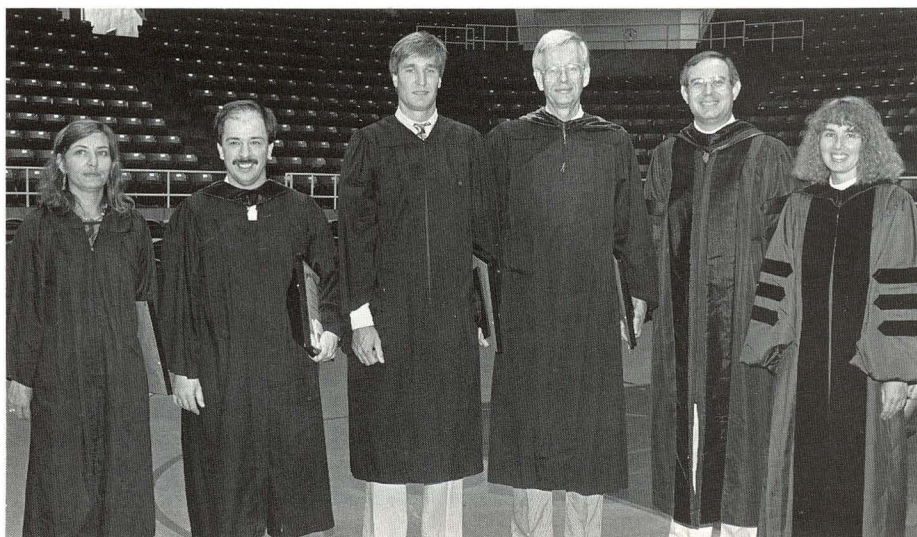
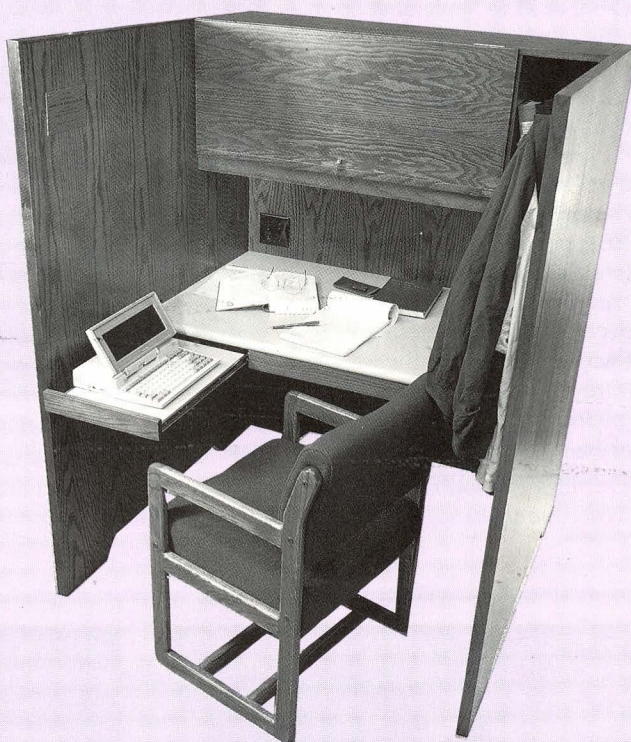
This program was possible through the generosity of Hunton & Williams, which has long been a friend to the Merhige Center and the Environmental Law Section of the Virginia State Bar. Jim Christman and Eric DeGroff helped coordinate the contacts between the speakers and developed questions and issues for consideration by the two speakers. Mr. DeGroff also acted as moderator for the program. In addition, Hunton & Williams, allowed its new offices to be used for the program.



## BENE

## LAW SCHOOL CAMPAIGN

With more than \$3.4 million in commitments, the Law School Campaign continues to make progress. Recent gifts include \$10,000 from Robert F. Brooks R'61 L'64 to name a study carrel and support the Law Fund; \$10,000 from Boyd F. Collier '64 to name a faculty office; \$6,000 from Kenneth J. Alcott B'77L'83 and Jean B. Alcott B'77 to name a study carrel; \$35,000 from Ralph E. Mirachi '65 to name the Gallery which connects the entrance foyer and the new classroom wing; \$10,000 from the J. Waverly Pulley III '72 to name a study carrel and support the Law Fund; and \$7,500 from Judge Donald H. Kent '63 toward naming the Judges' Chamber in the new Moot Court Room.



◀ Paul J. Zwier, Professor of Law, (third from left) was named "Distinguished Educator" by the University at Convocation August 28. Other faculty named to the honor include, from left, Dr. Sheila Carapico, Assistant Professor of Political Science; Dr. Robert Giacalone, Associate Professor of Management Systems; (Paul J. Zwier); Dr. Ellis M. West, Professor of Political Science; Dr. John D. Treadway, Associate Professor of History; and Dr. Barbara MacCluer, Associate Professor of Mathematics and Computer Science. Since the establishment of the Award in 1975, 68 faculty members have received the Distinguished Educator honor.



## BENE

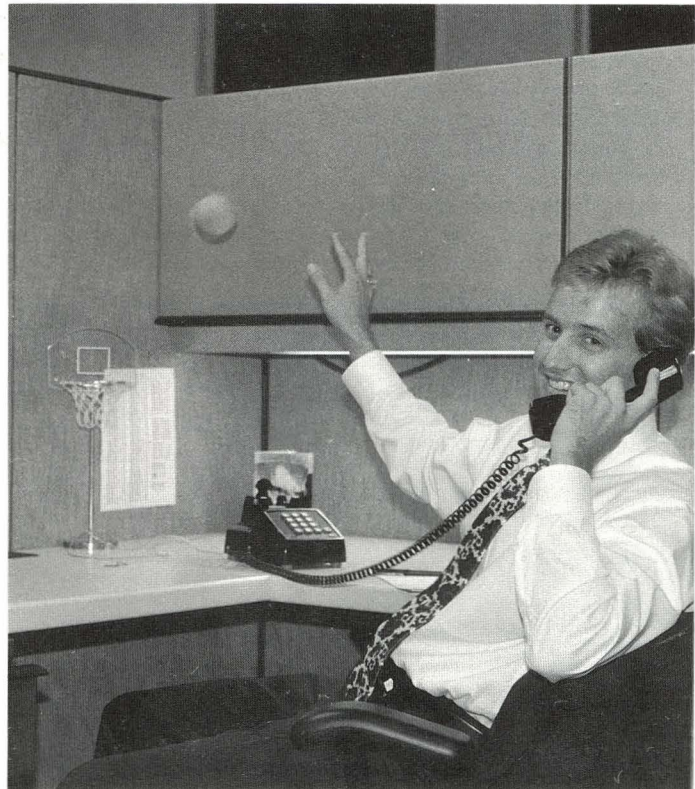
**Laurie West '93** has been elected as the 1992-93 Chair of the American Bar Association Law Student Division. She was elected to the position at the ABA/LSD Board of Governors Meeting in New Orleans, held October 31 to November 3. She is currently serving on the Board as Fourth Circuit Governor, overseeing law schools in Virginia, West Virginia, North Carolina, and South Carolina. Ms. West will preside over the division's Board of Governors, and the Assembly, comprised of ABA representatives and SBA presidents from each of the 176 national law schools. Ms. West is currently serving as Division Liaison to ABA's Special Committee on the Drug Crisis which works with the President's Drug Advisory Council and formulates policy for the ABA and state and local bar associations to become active in community drug prevention projects.



*Ed Beck '74, Professor Ron Bacigal, and Leland Mahan '64 pose during the Barnett Memorial Golf Tournament.*



*(l to r) John Bates, Chairman of the Executive Committee of McGuire, Woods, Battle & Boothe; Carle Davis L '53; Richard Morrill, University President; Joe Harbaugh, Law School Dean; and Bud Schill, University Counsel stand in the President's Conference Room following a meeting at which McGuire, Woods, Battle & Boothe pledged \$100,000 to name the Carle E. Davis Faculty Study in honor of the firm's partner and Law Scholl professor emeritus. A portion of the firm's gift will also go to their endowed scholarship.*





## PUBLIC INTEREST LAW ASSOCIATION

PILA, the Public Interest Law Association, has been active at the Law School for nearly a year now. The group has proven to be quite successful. Last year, PILA awarded one public interest summer fellowship, and this year hopes to give at least two full stipends of \$2,000 each. This fall, PILA collected over \$2,500 from its first annual "Give-a-Day" drive in which students, faculty, and staff were asked to contribute the equivalent of one day of their summer pay to help fund a summer stipend. In November, the 5K "Race Judicata" was held on campus.

PILA has also implemented a *pro bono* program, which acts as a liaison between students and public interest groups. Students may sign-up to participate in 20-50 hours of *pro bono* work over the course of a semester. For more information about PILA, please feel free to call Andrea Hall '93 at 359-1140.

## LAW REVIEW CELEBRATES PUBLICATION OF "VOLUME 25"

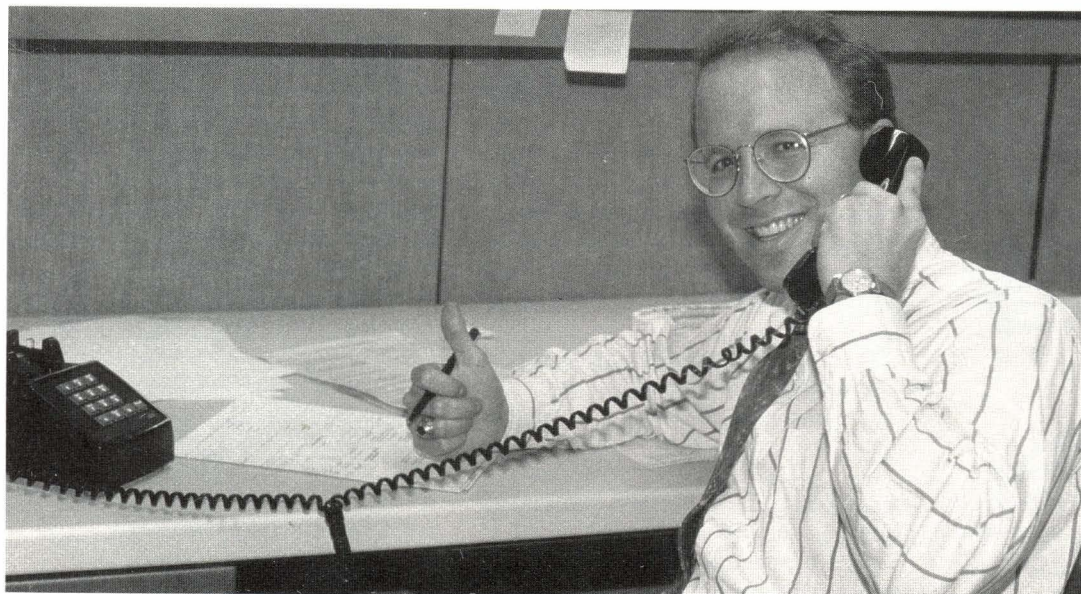
*by Donald P. Staples '92, Law Review Editor-in-chief*

On October 11, alumni and friends of the University of Richmond Law Review gathered at the Jefferson Hotel in Richmond to celebrate the publication of Volume 25 of the Law Review.

Student participation in Law Notes first appeared in 1962 with the first written piece by a student. An active leadership role by students in Law Notes at T.C. Williams began the next year when William Griffith Thomas '63, the first student editor-in-chief, along with Michael L. Soffin '62, and others, were able to secure student participation in the Law School journal.

Throughout the 1960s, student involvement in Law Notes continued. R. Kenneth Wheeler '64 lobbied Dean Muse to secure student control over the publications, resulting in the establishment of the review as it is known today. Patrick M. McSweeney '68 became the first editor-in-chief. Since 1968 the Law Review has continued its growth and has become a valued source of legal commentary and scholarly debate.

The Law Review continues to serve as a valuable resource for the Virginia practitioner and for the legal community at-large. The Law Review publishes the Annual Survey of Virginia Law, a widely-cited review of the changes in Virginia law, in addition to other issues containing scholarly articles and student-authored notes.



◀ At the Annual Law Fund Kick-off Phonathon, Phil Griffin '92 (at left) attempts a "no-look-shot" while calling alums to raise scholarship funds. George Marget '87 (above) signals confirmation of a pledge. Our thanks to Coopers & Lybrand for allowing us to use their office space for our first-ever "Downtown Phonathon."





*The Honorable Stanley Mosk, Associate Justice of the Supreme Court of California.*



*Shown below: Tom Edmonds (standing at right), Executive Director of the Virginia State Bar, and former dean of TCW, poses a question to Justice Mosk in the Moot Court Room.*

*Walter Emroch, Karen Emroch, Justice Mosk, and Dean Harbaugh following the Emroch Luncheon.*

## Emroch Lecture

The Honorable Stanley Mosk, Associate Justice of the Supreme Court of California, will deliver the 1992 Emroch Lecture, slated for April 13.

Justice Mosk was born in San Antonio, Texas, educated in the public schools of Rockford, Illinois, graduated from the University of Chicago, and has been a Californian since 1933. He was admitted to the practice of law in California in 1935.

From 1939 to 1942, Justice Mosk served as executive secretary and legal advisor to the Governor of the State of California, and for the 16 years between 1943 and 1959, he was a judge of the Superior Court of Los Angeles.

After serving in the Coast Guard Temporary Reserve during the early days of World War II, then-Judge Mosk left the Superior Court and voluntarily enlisted in the Army. There he served

until the end of the hostilities, at which time he returned to the bench.

In 1958 Judge Mosk was elected Attorney General of California with more than one million votes than his opponent—the largest majority of any contest in America that year. He was overwhelmingly re-elected in 1962.

As Attorney General for nearly six years, Justice Mosk issued approximately 2,000 written opinions, appeared before the Supreme Court in the *Arizona v. California* water case, and argued other landmark cases before the California Supreme Court. He served on some 10 boards and commissions, and created new divisions in the Attorney General's office to handle anti-trust, constitutional rights, customer fraud, and investment fraud problems. He authored some of California's most constructive legislative proposals in the crime and law enforcement fields,

including the measure creating the Commission on Peace Officers' Standards and Training.

In 1960-61 Justice Mosk served as a member of the Anglo-American mission to study appellate procedure in the United States and England, under the auspices of the Institute for Judicial Administration. In 1965, on behalf of the State Department, he observed the Southwest Africa (Namibia) case at the World Court, and then lectured at universities in nine African countries. In 1970 Justice Mosk attended summer sessions of The Hague Academy of International Law at the Peace Palace in The Netherlands, and in 1972 participated in a Wilton Park foreign policy conference in England. In 1982 Justice Mosk reviewed legal institutions in five East Asian countries for the Asia Foundation. That same year he served as an adjunct professor at the University of Santa Clara Law School. In the summers of 1984 and 1986 he lectured for two weeks at Trinity College, Dublin, Ireland.

On the floor of the U.S. Congress, Justice Mosk has been referred to as "[O]ne of the finest constitutional lawyers in the United States" (Senator Sam J. Ervin, D-North Carolina, Congressional Record, August 5, 1964, p. 17523).

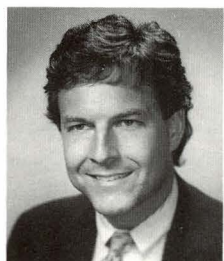
Justice Mosk has served on the Supreme Court of California since September 1, 1964. In November of 1986 he was confirmed for a new term with four and one half million votes. He is the author of many of the court's important opinions, and is a frequent contributor to law journals. Justice Mosk is an honorary member of the Order of the Coif from the University of Southern California and has received honorary doctor of laws degrees from the University of the Pacific (1970), the University of San Diego (1971), the University of Santa Clara (1976), Cal Western University (1984), and Southwestern University (1987).

The Emroch Lecture Series was established through the generosity of the late Emanuel Emroch R'28, L'31, his wife, Bertha, their son, Walter, and other friends of Mr. Emroch. This is the 8th Emroch Lecture. ♀♂



## Law School Association Elects New Directors

**T**he Law School Association is pleased to announce five new directors to the Board, elected by a unanimous vote during the Annual Alumni Meeting on October 12, 1991. They will each serve a three-year term. The vacancies were created when Gladys B. Harris '80, Henry R. Pollard IV '67, Michael L. Rigsby '69, William J. Sturgill '63, and Lucia Anna Trigiani '83 concluded their terms in office.



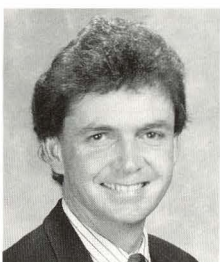
**Ken Alcott** graduated from the University of Richmond in 1977 with a degree in business and earned his J.D. from T.C. Wil-

liams in 1983. He is a Certified Public Accountant. From 1977 until 1980 he worked for the Richmond accounting firm of Straub & Dalch. Upon graduating from law school in 1983, Ken moved to Atlanta, Georgia, where he practiced with the law firms of Asbill, Porter, Churchill & Nellis and Morris, Manning & Martin. He joined Hunton & Williams in Richmond in November 1987 and works with the Corporate and Securities Team. Ken serves on the Metro Richmond Chamber of Commerce as Chairman of the Convention Support Task Force, and the Richmond North Business Council.



**Verbena Askew** graduated from Howard University in 1976 and T.C. Williams in 1980. She served as Assistant City Attorney for City

of Newport News from 1980 until 1986. In 1986 Verbena was appointed Deputy City Attorney for the City of Suffolk, and in 1988 she was appointed City Attorney for the City of Newport News. Verbena is a member of the Local Government Attorneys Association and the Virginia Trial Lawyers Association. She serves on the Boards of the Leukemia Society and the Y.M.C.A.



**Drew Carroll** received his B.A. degree from the University of Notre Dame in 1974, majoring in

government. He graduated from T.C. Williams in 1977 and is a partner in the Alexandria law firm of Land, Clark, Carroll & Mendelson. He is a former assistant Commonwealth's Attorney for the City of Alexandria. Drew is a member of the Virginia State Bar Association, the United States District Court for the Eastern District of Virginia, United States Court of Appeals for the Fourth Circuit and Alexandria Bar Association. He is presently serving on the Virginia Medical Malpractice Review Panel and as a member of the Executive Committee of the YMCA for Metropolitan Washington. Drew is a former member of the Board of Governors for the Virginia State Bar Young Lawyers Conference.



**Lee Melchor** graduated from Westhampton College in 1981 and T.C. Williams in 1986. She clerked for the Honorable

Richard B. Kellam, U.S. District Court, Norfolk, Virginia. From 1987 until 1990, Lee was a litigation associate in products liability for the Richmond firm of Wright, Robinson, McCammon, Osthimer & Tatum. In 1990 she left the firm to become an Assistant Attorney General in Richmond.



**Bill Ryland** received his B.A. from Richmond College in 1976 and his J.D. from T.C. Williams in 1979. Since 1991,

Bill has served as the Clerk of the Circuit Court for Prince William County, Manassas, and Manassas Park. From 1980 until 1990 he was the Assistant Commonwealth's Attorney. Bill is a member of the National Association for Court Management and the Prince William - Greater Manassas Chamber of Commerce.



## FORUM

*Members of the Faculty and Staff report recent awards, honors, and publications*

**Anne Hutchins Cresap** was honored on the occasion of her retirement from the Law School Library Friday, September 27th at a reception in The Faculty Study. Mrs. Cresap, catalogue librarian, came to T.C. Williams in 1980 and has seen the library grow considerably. At her reception, letters from colleagues and faculty were read aloud, each a testimony to Mrs. Cresap's dedication to her job and friendliness to the Law School community.

**Thomas F. Guernsey** ran a negotiation program for Legal Services Corporation on Guam and Saipan November 14-17. He also presented a paper at a Commonwealth Institute for Child and Family Services Conference on children with serious emotional disturbance. In November, Professor Guernsey published *Trial Practice* (with Dubin) (Anderson Publishing Company).

**Joseph D. Harbaugh** is returning to the ABA House of Delegates for a third term as the representative of legal education. Dean Harbaugh served as the delegate of the Association of American Law Schools (AALS) from 1983 through 1986. He also serves as the Parliamentarian of the AALS House of Representatives.

**Michael J. Herbert** recently published: "Getting Better All the Time: The Official (revised) Remedy Provisions of the Uniform Commercial Code's Article 2A," 96 *Commercial Law Journal* (1991); a portion of the Virginia Jury Instructions; "As We Forgive our Debtors: Banking and Consumer Credit in America," 25 *University of Richmond Law Review* (1991) (book review); "Consumer Chapter 11 Proceedings After *Toibb v. Radloff*," 45 *Consumer Finance Law Quarterly Report* 370 (1991); and "The Constructive Trust," chapter 16 of *Commercial Damages* (New York, NY: Matthew Bender & Co., 1991).

**Ann C. Hodges** served on the faculty search committee for the University's new undergraduate Jepson School for Leadership Studies. Her recent publication is "Sexual Harassment, Intentional Infliction of Emotional Distress and the 1991 Virginia Supreme Court" for the fall, 1991 issue of *Lex Claudia*, the journal of the Virginia Women Attorneys Association.

**J. Rodney Johnson** ran in the Richmond Newspapers annual marathon, held last October. He has also been active writing. Recent publications include *Basic Will Drafting in Virginia*; "Wills, Trusts & Estates," 4 *University of Richmond Law Review* 25 (1991); and "Dispensing with Wills Act Formalities for Substantively Valid Wills," *Virginia Bar Association Journal* (Winter, 1991).

**John Paul Jones** gave a speech to the annual convention of the National Association of Administrative Law Judges, in October. He also gave a speech to the United States Foreign Broadcast Information Service, where he spoke on the topic of comparative constitution-making. Professor Jones' recently published an article, "Some Ethical Considerations for Judicial Clerks," 4 *Georgetown Journal of Legal Ethics* 771 (1991).

**Okianer Christian Dark**, on sabbatical this year at The American University School of Law, was named to *Who's Who Among Rising Young Americans* (1992). She is the recipient of several awards, including the Distinguished Faculty Award from Virginia Women's Attorney's Foundation; the 1991 YWCA Outstanding Woman of the Year in the area of Law; and the Hope for People Award from the Hope Fair Housing Center in Lombard, Illinois. She was also a speaker at several forums, including: the Section on Women in Legal Education at the American Association of Law Schools workshop for new law teachers (July); the annual meeting of the Virginia Bar Association, where she

spoke on "Hate Speech and the First Amendment," (July); the Minority Law Teachers Conference in New Orleans, where she spoke on teaching methods (September); and at the annual meeting of the National Association of Administrative Law Judges, where she spoke on "Perceiving Stereotypes and Bias," with Dr. Mary Churchill.

**Robert E. Shepherd, Jr.** spent the fall semester on sabbatical as a Visiting Scholar at Wolfson College, Cambridge University, England. Prior to going to England, he testified at a congressional hearing before the House Subcommittee on Juvenile Delinquency, in Santa Fe, New Mexico, on September 27, 1991. Professor Shepherd recently published a chapter on "Witnesses in Matrimonial Cases" in Matthew Bender's 1991 text *Matrimonial Causes Litigation Guide* and "Why Can't Johnny Read or Play? The Participation Rights of Handicapped Student-Athletes," in *Seton Hall Journal of Sport Law*.

**Jonathan K. Stubbs** has written "Protecting the Right to Live in Isaiah's Brave New World," forthcoming publication in *Brooklyn Journal of International Law* (Summer 1991).

**Peter Nash Swisher** recently completed "Judicial Rationales in Insurance Law: Dusting Off the Formal for the Function" in the winter edition of *Ohio State Law Journal*. In the article Professor Swisher analyzes the uneasy coexistence of judicial formalism and judicial functionalism in present-day insurance law controversies, and the resurgence of legal formalism in the context of insurance law. Professor Swisher's latest treatise, *Virginia Family Law: Theory and Practice*, was published by the Harrison Company in October, 1991.



**Michael Allan Wolf** testified in June on the topic of enterprise zones before the Select Revenue Measures Subcommittee of the House Committee on Ways and Means in Washington, D.C. His latest publications include: "HUD and Housing in the 1990s: Crisis in Affordability and Accountability," 18 *Fordham Urban Law Journal* 545 (1991); *Charles Warren: Progressive, Historian* (University Microfilms, 1991); and *1991 Update for Land-Use Planning* (4th ed., Little, Brown, 1991).

**Paul J. Zwier** was named by the University as a Distinguished Educator. Professor Zwier is also involved with National Trial Advocates Association (NITA). He was named Team Leader, Deposition Program at NITA sessions in Boulder, Colorado; Seattle, Washington; and Fort Lauderdale, Florida. He is also Program Director for NITA's 2nd Annual "Persuading the Appellate Court" program, to be held March 11-13. Professor Zwier has also published "Due Process and Punitive Damages," 1991 *Utah Law Review*, and *Ethical Issues in Litigation, from First Client Interview Through Trial*, a Practising Law Institute video tape which was aired twice in September on New York's "Law Cable Network."

Videos written and directed by **Professor Paul Zwier** and **Dean Joseph Harbaugh** were aired during October and November on the new national cable network, Court TV (CTV). Professor Zwier's video, "Ethics in Litigation: From First Client Interview Through Trial," focuses on devising solutions to common litigation ethics problems. Dean Harbaugh's tape, "The Basics of Negotiation," describes the fundamentals of effective legal negotiation and analyzes the bargaining of two lawyers in a simulated dispute. Both videos were produced and are distributed by New York's Practising Law Institute.

## Commencement Speaker '92

### Judge Sloviter to address Class of '92

Dolores K. Sloviter, Chief Judge for the United States Court of Appeals for the Third District, delivered the School of Law commencement address on the 9th of May.

Appointed to the court on June 21, 1979, Judge Sloviter is the first woman ever appointed to the Court of Appeals. She is a graduate of Temple University, where she received a bachelors degree with distinction in economics and was elected to Phi Beta Kappa. Judge Sloviter then went on to University of Pennsylvania Law School from which she was graduated magna cum laude. At PENN, she was an editor with the law review and was elected to the Order of the Coif. From 1956-72 Judge Sloviter practiced law in Philadelphia. In 1972 she joined the faculty of Temple University where she taught Antitrust Law, Civil Procedure, and Law and the Elderly.

Since her appointment to the Court, Judge Sloviter has written more than 500 published opinions in addition to numerous unpublished opinions. Judge Sloviter is currently a member of the Standing Committee of Rules and Practice and Procedure of the Judicial Conference's Committee on the Bicentennial of the Constitution. She is also a member of the Philadelphia Bar Association, American Legal Institute, and in on the Board of Directors of the American Judicature Society.



*News received by December 1, 1991.*

## 30s

**Parker E. Cherry '32** will serve as of counsel for the newly formed law firm of Cherry, Abady, Seymour & Ross, formerly Cherry, Abady & Seymour.

**Archie C. Berkeley '32** has been elected president of the F.W. Boatwright Society, an alumni association at the University of Richmond for people who graduated more than 50 years ago. Mr. Berkeley practices law in the Richmond firm of Berkeley and DeGaldani.

## 40s

**Gilbert R. Swink Jr. '41** is a retired U.S. Magistrate in Norfolk. He just returned from Caribbean cruise with five other Norfolk couples.

**Marvin F. Cole '48** has been named honorary vice president of the Bar Association of Richmond.

**Robert F. Babb '49** is now serving as judge of the Juvenile and Domestic Relations Court, Third Judicial District, in Portsmouth, Virginia.

**Jack Paul Fine '49** was honored at the 111th Annual meeting of agents of the Northwestern Mutual Life Insurance Company in Milwaukee, Wisconsin. Mr. Fine was ranked in the company's top 100 in sales among more than 7,200 agents.

## 50s

**Joseph P. Rapisarda Jr. '50** is president-elect of the Henrico County Bar Association.

**Meredith A. House '52** has been elected secretary-treasurer of the Bar Association of Richmond.

**James W. Morris III, '57** of Morris and Morris, has been elected to a three-year term on the board of directors of the Bar Association of Richmond. The National Law Journal selected Mr. Morris for its list of the top 30 defense lawyers, based on interviews with insurance company counsels, defense attorneys and plaintiffs' lawyers. Mr. Morris was the only Virginian on the list.

# NOTES

**N. Andre Nielsen '58** has been named executive secretary of the Downtown Kiwanis Club.

## 60s

**Allan S. Buffenstein '65** has joined the Richmond law firm of Mezzullo & McCandlish to head its bankruptcy and reorganization section. Before joining Mezzullo & McCandlish, Mr. Buffenstein was with the firm of Hirschler, Fleischer, Weinberg, Cox & Allen.

**Harvey E. Schlesinger '65** was appointed by President George Bush on July 2, 1991, and unanimously confirmed by the United States Senate, a United State District Court Judge for the Middle District of Florida.

**Walter F. Witt Jr., '66** a partner in the Richmond-based law firm of Hunton & Williams, has been appointed vice-chair of the real property committee in the general practice section of the American Bar Association.

**Ralph L. Axselle Jr. '68** has been appointed chairman of the policy group committee of the Metropolitan Richmond Chamber of Commerce. Mr. Axselle is with the law firm of Williams, Mullen, Christian & Dobbins in Richmond.

**F. Byron Parker Jr. '68** has been elected Secretary of the Henrico County Bar Association.

**Thomas G. Hodges '69** son received the University of Richmond book award at Virginia Episcopal School. This award is presented to a junior from Virginia who has achieved academic and athletic excellence.

**Michael L. Rigsby '69**, Bar Counsel for the Virginia State Bar, took office in August as president of the National Organization of Bar Counsel.

## 70s

**John S. Barr '70**, of Maloney, Yeatts & Barr, has been selected to serve on the Third District Committee of the Virginia

State Bar and has also been appointed to serve on the Special Issues Committee of the Virginia Bar Association.

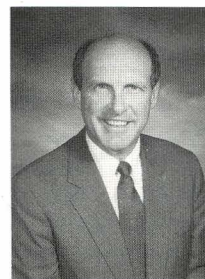
**Donald K. Butler '70** is pleased to announce that his daughter, Player Butler Michelsen '91, has become associated with him in his practice of family law in the Richmond law firm of Morano, Colan and Butler.

**George T. Elmore III '72** has been elected treasurer of the Henrico County Bar Association.

**Walter L. Hooker '72**, a principal in the law firm of Hooker & Collier, is forming a new firm called Hooker, Bode, Collier & Dickinson, Attorneys and Counselors at Law.

**Robert C. Bode '73**, a principal in the law firm of Bode & Dickinson, is forming a new firm called Hooker, Bode, Collier & Dickinson, Attorneys and Counselors at Law.

**Richard S. Rothenberg '73** is a principal in the Richmond law firm of Rothenberg, Henley & Robertson, formerly Martin, Meyer, Rothenberg, Goergen & Henley. The firm will focus on real estate, business organizations, estates and trusts, bankruptcy and civil trials, including commercial litigation, personal injury and family law.



**Edward A. Beck III '74** has joined the recently established Washington law offices of Smith, Helms, Mulliss & Moore as a partner. Mr. Beck is leaving the American Petroleum Institute where he represented the petroleum industry on taxation and international trade before the Senate Finance Committee, the House Ways and Means Committee, and the House and Senate Budget Committees. Mr. Beck, a member of the bar in Virginia and the District of Columbia, will supervise the Federal legislative and administrative practice of Smith, Helms, Mulliss & Moore.



**Deborah O. Jennings '74**, of Jennings & Jennings, has been elected as a director of the Metropolitan Richmond Chamber of Commerce.

**W. Richard Kay Jr. '74** has been promoted by Signet Bank to Senior Counsel. Mr. Kay works in the Corporate Counsel Department and is a member of the American, Virginia, and Richmond Bar associations and the District of Columbia and Virginia State Bars.

**F. Dixon Whitworth Jr. '74** has been elected as a director for the Virginia Bankers' Association. Mr. Whitworth is with F&M National Corporation in Winchester, Virginia.

**R. Reid Young III '74** has been elected President of the Martinsville/Henry County Bar Association. Mr. Young practices law in Martinsville, Virginia.

**Judson W. Collier Jr. '76**, a principal in the law firm of Hooker & Collier, is forming a new firm called Hooker, Bode, Collier & Dickinson, Attorneys and Counselors at Law.

**Howard T. Macrae Jr. '76**, and wife Linda, are pleased to announce the birth of their son, Henry Andrew Macrae on September 19, 1991. They have two other children, Elizabeth Alexandra (3), and William Alan (2). Mr. Macrae is Senior Vice-President and Assistant General Counsel at Wheat, First Securities, Inc. in Richmond.

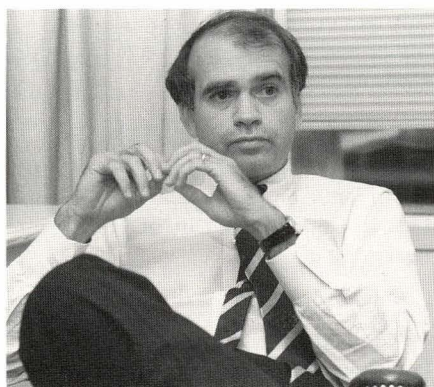
**John G. Mizell Jr. '76** has been named as a director of the Henrico County Bar Association.

**J. Brooke Spotswood II '76**, and wife Lu, announce the birth of their first child, Patricia Taylor, on August 17, 1991. Also, Mr. Spotswood has been elected as a director of the Henrico County Bar Association.

**George C. Cherry '77** has been named an assistant vice president and trust business development officer of Jefferson National Bank in Charlottesville, Virginia.

**Richard Cullen '77** has been confirmed by the Senate as U.S. Attorney for the Eastern District of Virginia. Mr. Cullen is a litigation partner in the law firm of McGuire, Woods, Battle & Boothe. He

served as press secretary to Rep. M. Caldwell Butler in the early 1970s when the 6th District Republican was involved in the House Judiciary committee's Watergate hearings. During the Iran-Contra hearings of 1987 Mr. Cullen served as special counsel to Sen. Paul Trible. He was also a political advisor of Republican Gov. John Dalton and Attorney General J. Marshall Coleman.



**Robert L. Flax '77** has been appointed to the medical malpractice review panels that are maintained by the Virginia Supreme Court. He was also elected Vice President of the General Practice Section of the Virginia State Bar and will service as Chairman next year. His article "Maximizing the Worker's Compensation Award and Fee for the Lower Income Client" was published in the spring issue of General Practice Plus.

**Karen A. Henenberg '77** has been appointed by the Arlington Circuit Court as a substitute judge in Juvenile and Domestic Relations District Court for the Seventeenth Judicial District.

**R. Gaines Tavenner '77** has been promoted by Signet Bank to Senior Counsel. Mr. Tavenner works in the Corporate Counsel Department and is a member of the American, Virginia, and Richmond Bar associations, and the District of Columbia and Virginia State bars.

**Theodore I. Brenner '78** has been elected to a three-year term on the board of directors of the Richmond Bar Association.

**Thomas F. Eubank '78** has been elected President of the Henrico County Bar Association.

**A. Lynn Ivey III '78** has been named Di-

rector of Project Finance at Scott & Stringfellow Investment Corporation in Richmond.

**Kenneth E. Powell '78** has been appointed by Governor L. Douglas Wilder to the Board of Directors of the State Educational Assistance Authority. Mr. Powell is a partner in the Richmond office of Hazel & Thomas, where he is Practice Manager of the Business/Tax Section and Chairman of the Economic Development Team.

**Edward C. Trope Jr. '78** has formed the law firm of Trope and Cook, located in Richmond.

**John V. Cogbill III '79** has been elected to a three-year term as a director of the Chesterfield Business Council. Mr. Cogbill is with the law firm of McGuire, Woods, Battle & Boothe.

## 80s

**Michael B. Ballato '80** and his wife, Jackie, announce the birth of their son, Michael Gaines, on November 13, 1991.

**Stephen E. Baril '80** has been elected Chairman of the board of directors for the Chesterfield Business Council. Mr. Baril is with the law firm of Williams, Mullen, Christian & Dobbins.

**Sue Herrigel '80** has recently established the Women's Law Clinic in Richmond, Virginia. The Women's Law Clinic is a general practice law firm providing client-centered advocacy and personal legal services.

**Stephen R. Romine '80** has been promoted to counsel status at Hunton & Williams.

**John M. Carter '81** has been named corporate counsel for Richmond-based Lawyers Title Insurance Corporation. Mr. Carter joined Lawyers Title in 1986 as an associate corporate counsel.

**Gladys Bailey Harris '81** has reopened a law office in Richmond. Ms. Harris, a commissioner in chancery for the Circuit Court in Richmond, is former chairperson of the state Alcoholic Beverage Control Board.

**Linda F. Rigsby '81** has been elected to a three-year term on the board of directors of the Bar Association of Richmond.



Mrs. Rigsby also serves as secretary-treasurer of the corporate counsel section of the Richmond Bar.

**John B. Catlett Jr. '82**, and wife M. Katharine Spong, announce the birth of their son, John B. Catlett III, on May 21, 1991.

**W. Rand Cook '82**, and his wife, announce the birth of their second child, Hannah Paige Cook, on April 9, 1991.

**Elisabeth Oxenham Davis '82** has been elected Vice President of the Henrico County Bar Association.

**Deborah L. Fletcher '82** has been elected secretary of the Metropolitan Richmond Women's Bar Association. Ms. Fletcher currently works at the law firm of Hunton & Williams in Richmond.

**Jeannie L. Pilant '82** and Phil Pollack announce the birth of their first child, Matthew Lewis Pollack, on October 17, 1991.

**William F. Seymour IV '82** is a principal in the newly formed law firm of Cherry, Abady, Seymour & Ross. Mr. Seymour is the former managing partner of Cherry, Abady & Seymour.

**John Whitlock '82**, was chosen from more than 300 ValCom Computer locations nationwide to receive the ValCom Award of Excellence. The award is based on customer service and satisfaction as well as profitability and business management. Mr. Whitlock is the owner of the Valcom Computer Center of Richmond.

**Charles W. Best III '83** married Miss Darden Adams June 29, 1991 in Tupelo, Mississippi. The couple resides in Virginia Beach.

**Carolyn P. Carpenter '83**, of Carolyn P. Carpenter & Associates, has been elected as a director of the Metropolitan Richmond Chamber of Commerce.

**Steven D. Gravely '83**, a director with the law firm of Mezzullo & McCandlish, spoke at the Richmond Export-Import Club on "Reconstruction Opportunities in Kuwait". Mr. Gravely recently returned from Kuwait.

**Jacqueline Maykranz Kraeutler '83** is counsel for Atochem North American, Inc. specializing in labor, employment law, and employee benefits issues. Ms. Kraeutler and husband, Eric, live in Swarthmore, Pennsylvania with son, Matthew (4) and they are expecting another child.

**Harland L. Miller III '83** joined First American Title Insurance Company in July as Vermont State Counsel. Mr. Miller and wife, Angela, have two sons, Harland (8) and Ashley (5).

**Deborah L. Rawls '83** has been appointed to a six-year term as a judge of the Juvenile and Domestic Relations District Court of the City of Virginia Beach.

**Louis D. Snesil '83** has been elected vice-president of the Richmond Trial Lawyers Association.

**Suzanne Fadley Frye '84** announces the opening of her office for the private practice of law in Woodstock. Mrs. Frye served as an Assistant Commonwealth's Attorney in Shenandoah County, as a Special Assistant Commonwealth's Attorney for Frederick County, and later acted as Special Counsel to a multi-jurisdiction grant jury seated in Winchester.

**Douglas M. Nabham '84** has been elected a shareholder in the Richmond law firm of Williams, Mullen, Christian & Dobbins. Mr. Nabham joined the firm in 1985 as an associate.

**Kevin B. Rack '84** has been named to the James Madison University Planned Support Advisory Council, which provides support and technical expertise for the University's Planned Support program through its collective knowledge of estate planning and charitable gifts. The Council consists of practicing attorneys, trust officers, accountants, insurance professionals and educators. Mr. Rack leads the trusts and estates department at the Virginia Beach law firm of Huff, Poole & Mahoney, PC, and concentrates in the areas of estate and gift tax planning.

**Robert E. Spicer Jr. '84** has been elected a shareholder in the Richmond law firm of Williams, Mullen, Christian &

Dobbins. Mr. Spicer joined the firm in 1985.

**James O. Clough '85**, and his wife Sandra D. Clough, announce the birth of their first child, daughter Ellen Ann Clough, born August 11, 1991. Mr. Clough practices in Harrisonburg, Virginia with William W. Helsley '85.

**Kevin L. Hubbard '85** has become associated with the newly established law firm of Bennett and Zydron, PC in Virginia Beach, and is practicing in the areas of personal injury, medical malpractice, real estate, zoning law, and domestic relations.

**Mary-Ellen A. Kendall '85** has been elected chairperson of the corporate counsel section of the Richmond Bar Association and President of the Metropolitan Women's Bar Association. Ms. Kendall is the underground storage tank financial responsibility manager for the State Water Control Board.

**R. Griffith Thomas '85** is engaged to Page B. Robinson, publisher of the Congressional Digest. An April wedding is planned.

**Diane Langley Wright '85** announces the birth of her son, Jack H. Wright II on November 16, 1990.

**James C. Cosby '86** has become associated with the Richmond law firm of Maloney, Yeatts and Barr, PC. Mr. Cosby will concentrate his practice in business and commercial litigation.

**Kenneth C. Hirtz '86** has joined the Richmond law firm of Schaffer & Cabell. Mr. Hirtz, who was with Sands, Anderson, Marks and Miller, will focus his practice on the defense of personal injury cases, military and criminal law.

**Karen L. Lebo '86** has been elected as vice president of the Metropolitan Richmond Women's Bar Association.

**Donald M. McGayhey '86**, and wife Sarah, announce the birth of their first child, Christopher Gambling McGayhey, on April 21, 1991.

**Rhysa G. South '86** has been named as a director of the Henrico County Bar Association.



**Frost B. Telegadas '86** has been elected as treasurer of the Metropolitan Women's Bar Association. Mr. Telegadas is working with the Richmond law firm of House, Davidson & Telegadas.

**Robert Vaughan Timms Jr.** and **Kimberley Herson Timms '86** announce the birth of their second son, Joseph Lawrence Herson Timms, on March 20, 1991 in Virginia Beach. Mr. and Mrs. Timms practice with the Norfolk firm of Vandeventer, Black, Meredith & Martin. Mr. Timms received his LL.M. in Taxation from the College of William and Mary in May, 1991.

**Annmarie L. Gover '87** and husband, Matthew, are living in Harrisburg, Pennsylvania where Ms. Cover continues to work as a corporate attorney for Pennsylvania Blue Shield. Mr. and Mrs. Cover are expecting their first baby in December and welcome any T.C. Williams grads to visit.

**George W. Marget III '87**, and wife Barbara, announce the birth of their daughter, Bailey, born October 14, 1991. Bailey's brother, Ryan, is 3 years old.

**Debra J.C. Dowd '88** has joined the Richmond law firm of LeClair, Ryan & Joynes as an associate. Ms. Dowd will concentrate in the areas of bankruptcy filings and debtor/creditor issues. She was an associate with Hirschler, Fleischer, Weinberg, Cox & Allen.

**Renay M. Fariss '88** has opened a law office in Chesterfield County. Ms. Fariss was an associate with the firm of White, Blackburn and Conte.

**Kelli A. Krumenacker '88** has been elected Secretary/Treasurer of the Martinsville/Henry County Bar Association. Ms. Krumenacker is associated with the firm of Young, Haskins, Mann & Gregory in Martinsville.

**Barbara H. Lavin '89** has joined the Portsmouth law firm of Livesay & Associates, P.C. Ms. Lavin is admitted to practice before the Virginia Supreme Court, U.S. District Court, and the U.S. Bankruptcy Court, Eastern Division. She has written a book, Potential Legal Pitfalls in Elementary Property Transactions in Virginia.

**Philip R. Trapani Jr. '89** has become associated with the law firm of Heilig, McKenry, Fraim & Lollar, PC in Norfolk. Mr. Trapani will practice in the areas of business, commercial and real estate law.

## 90s

**Paul G. Gill '90** finished his clerkship with Federal Judge James Spencer in August and began work as an associate in the Richmond-based firm of McGuire, Woods, Battle & Boothe. Mr. Gill married Elizabeth Gagliano on August 17, 1991. Mrs. Gill will receive her Masters of Education from the University of Virginia in December.

**Debbie Nochimson Wilson '90** and **Captain Kenneth G. Wilson '89** were married in July.

**John A. Burlingame '91** has become associated with the law firm of Hazel & Thomas, P.C. in their Alexandria office. Mr. Burlingame will be working in the Litigation Section of the office.

**Player Butler Michelsen '91** has become associated with the Richmond law firm of Morano, Colan and Butler with her father, Donald K. Butler '70.

**Victor Narro '91** sends his appreciation to his fellow classmates for their standing ovation as he received the Nina R. Kestin Service Award at Graduation.

**James H. Thompson '91** has become associated with the Richmond office of Hazel & Thomas, P.C. and will be working in corporate matters.

## In Memoriam

**Herman Gross '36**  
*Richmond, Virginia*

October 5, 1991

**Malcom A. Newton '47**  
*Richmond, Virginia*

May 17, 1991

**Charles A. Ottinger '64**  
*Leesburg, Virginia*

April 21, 1991

**Albert Lee Philpott '47**  
*Bassett, Virginia*

September 28, 1991

**Beecher E. Stallard '31**  
*Richmond, Virginia*

October 29, 1991

**John C. Williams '27**  
*Richmond, Virginia*

November 10, 1991





The T. C. Williams School of Law  
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GC-35  
St. Petersburg Beach, Florida view looking from the north  
end of St. Petersburg Beach to the south overlooking the  
white sandy beaches and the Gulf of Mexico. Many well  
known hotels, motels and condominiums are shown along  
the beach.  
(Photo by Tom Brown)



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ADDRESS

The Alumni Office  
The T.C. Williams School of Law  
University of Richmond, VA  
23173

Dear Friends,

These five years have passed  
quickly. I will miss Richmond  
and the friends I have made  
through T.C. Williams.

I know there are many  
great things ahead for the law  
school, and I wish you all the  
very best in the future.

Best always,  
*Pearl Thomas*



Clearwater Beach, Florida